

Unless you plan on putting in an overpass to divert the traffic from Aris T. Allen Boulevard to the other side of Crystal Springs Development, I am greatly opposed to the Crystal Spring project.

If anybody can give me a logical explanation why Forest Drive should have another development adding numerous cars to Forest Drive, I am extremely interested. Please do not go into this project dismissing Forest Drive traffic limitations.

Thank you.

Kathy Kotowski
Cedar Ridge Court
Annapolis MD 21403

I am completely against this development. Forest drive has too much traffic already. There is no "forest" on Forest Drive anymore. All it took was one small accident on Forest Drive to shut down the whole city leaving the Annapolis Neck, Eastport and Downtown in gridlock for hours. Before adding more development, why not take care of the existing homes on the Annapolis Neck by providing City water. Our Creeks and streams are already suffering. Removing more forest will not help protect our Bay.

Ann Brown
Fairview Avenue
Annapolis, MD 21403

Mayor Pantalides:

The Crystal Spring Farm development would eliminate the last remaining city forest. I am concerned about the impact of this development on the environment, water quality, school population, and traffic. The Forest Drive corridor cannot accommodate existing traffic volume and patterns well. There have been numerous occasions this year alone that show indisputable proof that existing infrastructure is inadequate in emergency situations. Annapolis, and Forest Drive in particular, do not have infinite capacity for growth. Annapolitans elected you over the incumbent Mayor in hopes that you would recognize this concern and make sure that any growth would be extremely carefully considered and smart for the City. It is becoming increasingly obvious that any further development along Forest Drive is not in the best interests of Annapolis.

Furthermore, because traffic is now one of the City's top concerns for residents, I also strongly urge you to ensure that the Circulator trolley stays operational. The Circulator has revolutionized life for my family and many of our neighbors. We all rely on it throughout the year to travel downtown and back. It is our greatest and most used development in Annapolis that has enabled us to walk more and drive less. It has done wonders to move people from Uptown to Downtown, alleviating tourists and residents from adding to traffic congestion and parking scarcity. I'm sure it has benefited the ailing downtown merchants by taking more people to their doors as well. The Circulator is an excellent example of smart response to growth.

Thank you,

Rachel Rachfal
Woodlawn Avenue
Annapolis, Maryland 21401

Please know that I do NOT want any development of forested land in Ann Arundel County for the building of new homes or businesses. Leave well enough alone.

Dr Leon J Greenbaum
President, Carr's Wharf Community Association

Dear City Staff,

I appreciate that you are taking comments on the proposed Crystal Spring project from the public and I have sent the request for comments to all of the Growth Action members.

I reviewed the latest submission so I could develop my own comments, but am unable to respond until I get more information:

1. As far as I know the only prior submission to the City was a Forest Delineation Plan(FDP)--the letter calls the June 25 submission a site plan?

I am more familiar with County planning, so is this proposed site plan that would require much more detail or an FDP? Has the developer filed a separate site plan?

2. The only information on the letter that accompanies the submission is related to the Lutheran Services use of the site for a CCRC--the website for the Crystal Spring Project still has reference has A New Concept in Retirement Living Shoppes - Restaurants- Cultural Arts-Inn and Spa. It is difficult to tell if these additional uses are shown on the plan--no labels except it is stated that the CCRC is in blue.

3. Is there a detailed consolidated environmental map that is available to the public? It is referred to as having been completed.

4. Is the project property 190 acres per the letter?

5. Aside from moving the main CCRC building closer to the retail per the letter have there been any changes to the retail etc. that has been part of this project? Retail is said to be reduced by 40,000 feet--what has been deleted?

6. Where is location of the stream ? It is not show on the June 25 submission.

I hope that you can answer my questions so that I can fully comment on the submission.

Thank you,

Ann Fligsten

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Ann M. Fligsten

Coordinator

Growth Action Network Of Anne Arundel County, Inc.

<http://growthaction.net/>

Kinloch Circle

Arnold, MD 21012

Dear Mayor Pantalides:

I do not want to see anything built at Crystal Spring. There are so many other areas in and near Annapolis to build this sort of project. Why here?
Why not somewhere that has less impact to the environment, traffic, etc?

While I am on the subject, the project slated for Eastport Shopping Center (200 rental units) should also be scrapped. This is the craziest thing I have ever heard. Eastport is already getting crowded, parking is getting difficult, and this project is too big, too ugly, and the only people who will benefit are the shopping center owner (who lives in Potomac) and the developers (who are from Baltimore) A project such as this will transform Eastport forever....and not in a good way. I will move if this project comes to fruition. And I spend alot of time and money here in Annapolis.

I support you and voted for you. PLEASE take a stand against both of these projects. Neither is needed, or wanted in this area.

Thank you...

T. Davis
Eastport

For anyone who lives along Forrest Drive and down through Bay Ridge, the idea of adding nearly 400 living units and destroying valuable and irreplaceable forest land so close to the water is ludicrous. Nobody denies the owner of the property the right to make a reasonable profit from the land. By attempting to squeeze every possible dollar out of the property, however, while disregarding the burden imposed on those living in the area is unconscionable. What is the burden? Additional traffic on roads already near saturation; loss of and damage to the environment; and increased demands on county and city services. These burdens far outweigh any gains in property taxes or business generated. Despite the claims of developers, such developments never pay for themselves, thereby putting pressure on politicians to raise taxes or decrease services, and they decrease the quality of life for everyone. The current plans are too big in scope, are inconsistent with environmental concerns and laws, and should be rejected.

Ned Criscimagna
S. Cherry Grove Ave.
Annapolis, MD 21401

Last weekend I visited my son and his family in New York City. We spent much of the time in parks because he has a two year old son. I was so impressed with the parks. One park near his apartment in Greenwich Village had not only playgrounds but also lovely trees, bushes, flowers and benches and some shallow pools and sprinklers. Throughout the park were many musicians playing for the public: small bands and even a piano player. The whole scene was very lively.

There were smaller parks all around the area with various playground equipment, swings, sandboxes, etc., some quite interesting and different. We went uptown to Central Park which was amazing. There were huge rocks for older children to climb on and smaller rocks with steps to climb up, holes to climb down through and connecting walkways. There were areas for pick up soccer, paths for walking and bicycling, swings but very little conventional playground equipment. Of course, trees, bushes and flowers. Thousands of people were enjoying themselves.

Sunday morning my son and I bicycled down to the World Trade Center to see the waterfall monuments. The waterfalls and surrounding park were so well done: quiet, lovely and sad. We then bicycled along the Hudson River which was beautiful. Once again: trees, bushes and flowers.

I'm relating all this because I think this is what Annapolis needs more of. Crystal Spring is our last chance to create a large, natural park for Annapolis. We don't need anymore stores or buildings. We need space. People need to be able to get outside and enjoy nature. This could be similar to Quiet Waters park where people could come and picnic, and walk and ride bikes.

This week in Eastport where I work across from a little park on third street, a nice man, with a slight foreign accent, and his grandchild, a girl of about 7 holding a doll, stopped to ask me where they could find a park. I pointed out the little Eastport Park, but the little girl said that it was too babyish for her, which it really was. I recommended Quiet Waters Park, but the man said "Don't you have to pay to get in?" I was embarrassed to say yes, if you were driving. Shouldn't all parks be free? I did tell him about the little park near the old Fawcetts building.

Speaking of the Fawcetts building, I believe that whole ego alley area should be a park. Take out the parking and put it somewhere else maybe underground. No one comes into Annapolis anymore to go shopping. It just isn't going to happen, no matter what stores are put there. There needs to be something to draw people downtown first, and then when they are there, they may stop by what stores there are. Currently, those stores go out of business all the time. What could be better than a park on the water with bands and concerts and maybe some little pools and rocks for children to climb on. An outdoor cafe would be nice where the Fawcetts building is now. And ways for people to get out on the water for little boat rides.

Annapolis needs to think outside the box. The stores at the Inner Harbor are no longer drawing people to the Harbor. Annapolis should not follow Baltimore's example but rather New York's. Parks are the answer.

Lucy Iliff

Dear Growth Action Network,

I am an anti-growth proponent. That may not be popular, but each voice is important as all conventional wisdom was at one time radical thought.

People talk about growth as though it is intrinsically good and I challenge that. Every area has a limit to how many humans it can support. There is a break point when further growth in numbers or dollars results in lost value. As a management consultant in the 80's and 90's, I was helping Fortune 100 companies "rightsize" as they learned that top-end growth was not a valid goal. Cities and townships need to accept that at some point, a place becomes less desirable to live in due to water pollution, traffic congestion, increased needs to fund infrastructure (schools, fire/police, waste management). At some point, those that can afford to leave, do leave and all that is left are those that require services but cannot afford to pay for them. I lived in the Detroit area for many years and left because I could afford to. In fact, I can afford to live anywhere in the world that I choose. I came here for waterfront, sailing, fishing, access to Baltimore and Washington business opportunities, and climate. I had no idea that this was such an unhealthy place to live and I regret having moved my family here. People most frequently threaten to leave this area because of taxes.... if you think of the root cause of taxes, it is because we have so much infrastructure, so much density, and so much pollution. Do we really want more?

It simply is not sustainable to continue to convert our scarce forested land into housing (or any other use). We can't continue to widen roads to accomodate more people. We have already exceeded the number of people that can be sustained here. I am writing from Sydney Australia where I am visiting. The Sydney Harbor used to be horribly polluted and the city was suffering economically as it was at risk of no longer being a magnet for wealthy asia-pacific residents and visitors. They built a system to pipe their stormwater miles offshore and that was their solution to clean the harbor. The average cost of a home in Sydney is about \$600,000 US and rapidly rising. It worked, but it feels like just pushing the problem on to somewhere else. We have no easy solutions. For the time being, our current pattern of growth is unsustainable. Our city will slowly become less desirable until a point that no one is drawn here and the value of our piece of the area diminishes.

What we really need is re-development, not new development. Better jobs, not more jobs. Business is speculative. That's capitalism. There is no guarantee that developers can get what they want just because they've spent four years asking for the same irresponsible development. Crystal Springs is a value destroyer. We need to focus on value growth.... even if it means "rightsizing".

Rusty Gowland

Dear Mayor Pantelides, Ms Broadbent, members of the Planning Commission,

We the citizens of greater Annapolis implore you to reject the new Forest Conservation Plan (FCP) for the Crystal Spring development on the bases of a deficient wetland delineation; wetland impacts that would exceed thresholds under the Maryland General Permit (GP); unacceptable impacts to contiguous forest; and inadequate mitigation measures.

The project as proposed would also cause severe congestion to Forest Drive traffic patterns and contribute to the overcrowding of area schools. It is the wrong project in the wrong place.

We also ask that the Planning Commission reject this FCP because of its several deficiencies and the following issues:

- The Wetland Delineation greatly underestimates the amount of non-tidal wetlands
- As a result, wetland impacts are greatly underestimated, by as much as 1,000%.
- The documents are unclear and highly ambiguous as to drawings and impacts.
- The amount of forest loss (44 acres) is unacceptable under the Forest Conservation Act
- The wildlife corridor and forest mitigation proposed is inadequate to offset impacts to the wildlife habitat and ecological functions provided by the 82-acre contiguous forest block on the property.
- A new, objective wetland delineation by an independent wetland expert is greatly needed.

We urge you, Mayor Pantelides, to stand by your original conviction in working to protect this area. You campaigned vigorously to stop the project, not to make it slightly smaller.

The developers would have you believe that the City has no authority to stop the project, but the facts are clear. The project would not comply with existing environmental law, and as a result it is not in the interest of the public trust of the Citizens of Annapolis and surrounding areas.

joel skalka

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To whom it may concern:

Imagine the magnificent landscape and forests that greeted the original settlers of Anne Arundel Town (now Annapolis) in the early 1600s. Mature hardwood trees, mixed forest, scrub-shrub, riparian area, and open fields and meadows. The Wild Turkeys they found back then still breed in the Crystal Springs Forest area today, and until recently, such rare species as American Woodcock and Northern Bobwhite could be found on the farm.

Why do I care you ask? First, I have lived in the Annapolis Neck area for over 20 years so I am directly affected by what this development would do; destroy much needed natural space and add to traffic congestion on Forest Drive.

As I am sure you are aware, this project would destroy acres of contiguous forest and would severely degrade and fragment the remaining woodland. Traffic will increase, and schools will become even more over-crowded than they already are. Deer will be forced onto surrounding lands, leading to increased traffic collisions. Water quality in Crab Creek and South River will become more polluted.

I have already seen an increase of deer in my back yard (a town home!), since the CVS went up on Forest and Edgewood, not to mention our now resident fox, who until this past year or two you never saw in our mutual backyard. I have walked or biked every inch of the neck, I see all the developments and it rips my heart out that leaders continue to let it happen. Do you not care what is left to your children? to the earth?

This Crystal Spring project, from what I've heard and read about, would be nearly three times the size of the Annapolis Towne Centre. The environmental impacts from this development would create more pollution for the South River and the Chesapeake Bay and other unacceptable effects. Parole was one thing...it was a beaten down piece of cement land. Go ahead develop on that, make it better. This is NOT that!

If I remember during the elections the new Mayor said "stop the project"; it is the main reason I voted against Josh Cohen. So please Mayor, stand by your original vision to protect Crystal Spring Farm and Forest as open space. To the City Planning and Zoning team, send back the FCP on the basis of unacceptable environmental impacts and inaccurate wetland delineation!

Finally, anyone who has walked the trails of what once was a Laurel Bank Farm, 340 acres of land that was, over 20 years ago, saved from development by other concerned citizens and government officials know that it can be done and understand how open spaces and lack of development can impact a community.

What will be your legacy? Please do not let Forest Drive become Deforest Drive!

Maureen Peterson
Annapolis, MD
(Ward 7)

To our city government officials:

I am writing to express my view towards the current submission for the proposed Crystal Springs subdivision on Forest Drive in Annapolis.

I have been a resident of Annapolis for over 35 years and have had my office located at the corner of Chinquapin Round Road and Forest Drive for over 24 years.

I do not believe that there has been a proper study of the ingress/egress from the Annapolis Neck Peninsula and from my observations, a new development of the size proposed would overtax the current road system and that the proposed additions and changes of roads would not be adequate to provide a safe ingress and egress on Forest Drive and any feeder roads.

Regarding the forest conservation act, the proposed development pays lip service to the environmental issues presented by such a massive development in a fragile peninsula on the South River. This property is composed of wetlands and forests which must be protected by law, and the proposed development will result in a serious degradation of the environment in this area.

From a personal point of view, I believe the concept of Smart Growth for this area would result in converting the majority of the forest into an area with public access and connection to Quiet Waters park. The concept of Smart Growth is not to pack as much as possible into areas with facilities and then deprive the residence of a quality of life which could be further enhanced by more green area. Quiet Waters Park is a jewel on the peninsula which is used to its maximum and therefore an expansion would enhance the lives of those living in this area.

Thank you for your attention to my comments.

Judith Billage
Eastport resident.

Judith Billage, Attorney at Law
Forest Drive
Annapolis, MD 21401

It's amazing to me that a group of radical, no-growth advocates can extend so much power over the Mayor of Annapolis, as to actually cause harm to the City.

They do not care that the land was originally approved for 100% development, was bought to prevent that, that the owner had to develop a portion to be able to put over 70 acres into preservation, that it would serve the elderly, with over 2,000 expressing a deep interest in the CCRC being built in an integrated community setting that is the new model for aged living, that it will create permanent jobs for returning vets and the underemployed, provide job training, provide revenue for the City, and preserve and protect the environment in extraordinary ways.

Unfortunately, this group of opponents have garnered support by hysteria-causing lies and mis-information. Everyone of their complaints can be refuted with documented truths, unlike their wild claims with no proof.

Yet they have dominated all reasonable debate with their non-provable accusations. If the truth were really known, any reasonable person would see that it was a stunning project and one that should be promoted to the full extent. Any other area would be proud and thrilled to have such a project, and we look like fools for not embracing it. By already making the project smaller, we have diminished the revenue to the City, and the number of jobs now available. Any more reduction begins not to make economic sense, and further projects the image of Annapolis as a non-friendly-to-business community. Businesses are leaving our area, and who in their right mind would take on Faucett's now? And now Crystal Spring is in jeopardy all because a small band of zealots told enough lies to get people opposed to the idea of developing the land in any way. I bet if a questionnaire was taken of the people who voted for the Mayor because of Crystal Spring, their rationale would not be based on the truth.

Does the City want another lawsuit, like Quiet Waters, who had the decision not to build overturned because the opposition used false information to influence the voting entity?

Does Annapolis need any more black eyes? The project has been opposed because of the lies told about it. Doesn't anyone want the truth?

And want to look at the real benefits it provides? Do people know how many acres will be preserved? Do they remember the endorsement of the South River Federation for all the remediation the developers have committed to? Or just the latest rants of lies by people who oppose any development? Who serves the community the most?

Janet Richardson-Pearson

Dear Ms. Broadbent,

Thank you for the opportunity to comment on the preliminary Forest Conservation plan (FCP) For the Crystal Spring development My comments are as follows:

1 .Review of the FCP should be delayed until the City's new Forest Conservation Ordinance (FCO) has been enacted. Contrary to other local governments, the City of Annapolis presently does not consider approval of an FCP as part of the overall approval of a project. It also has a separate appeal process. These discrepancies will be corrected in the City's new FCO, allowing review of Forest Conservation concerns in conjunction with other relevant factors, such as traffic impacts, as part of a comprehensive evaluation of a proposed project. Last year when the new FCA was first discussed, it was stated that the proposed Crystal Spring development would be evaluated under its provisions.

2.The proposed development does not fully address the provisions of State FCA relating to priority forests; namely, that they "shall be considered priority for retention and protection, and they shall be left in an undisturbed condition unless the applicant has demonstrated that reasonable efforts have been made to protect them and the plan cannot reasonably be altered. Economic value is not to be considered as part of such consideration. This requirement is to be considered separate from the forest threshold requirements of the FCA. Elimination and reduction in intensity of much of the proposed development will allow more priority forest to be preserved.

3. The proposed development is much more intense than that envisioned in the City's Comprehensive Plan. There is no mention of a hotel, spa, Cultural Arts Center, amphitheater, or apartment buildings. The construction of townhouses and cottages in addition to the massive Continuing Care Center limit greatly exceeds the 140 housing units stated in the City's Comprehensive Plan. Elimination of much of this development would enable much more Priority Forest to be retained. Elimination of the proposed development south of the intermittent stream would allow a large contiguous swath of forest to be preserved,. Particularly in conjunction with the reforestation of the open areas,

Thank you for your consideration of my comments.

Yours sincerely,
Earl H Bradley Jr.

Please refrain from any act other than imposing a moratorium on development in that corridor until a rational, measured analysis of the entire peninsula's and area's needs are properly analyzed by all concerned jurisdictions, their agencies, institutions and citizens.

Speed here is the enemy of the commonweal. No merit results from the haste and fragmented approach urged by those whose subjectivity precludes recognizing and promoting the area's vitality. So far, it seems as if the local jurisdictions aren't communicating, nor do they seem to be sensitive to the complex interplay of policies which swirl about this issue. Don't force this project on our community.

Enough, already. One clown with one vehicle in the very area in question has proved sufficient to paralyze the entire City of Annapolis and environs for hours. Please do not create further such opportunities. Do not hasten to develop. Do not exacerbate the situation.

Please exercise prudence, realistic care for the entire community and awareness of our fragility. What are common priorities? Realities? Alternatives? Be here now.

Thank you.

Mark C. Herbst
Harwood, Maryland

July 30, 2014

Ms. Maria Broadbent, Director
City of Annapolis Department of Neighborhood and Environmental Programs
City Hall
160 Duke of Gloucester
Annapolis, MD 21401

***Annapolis Environmental Commission Comments on the June 25, 2014 Updated Submittal by
Crystal Spring Development (CSD), Crystal Spring Preliminary Forest Conservation Plan (FCP)***

Dear Ms. Broadbent:

The Annapolis Environmental Commission (AEC) submits the following comments regarding the above referenced FCP submittal.

Time Allowed for Comment

This project is among the largest, most complex, and most environmentally damaging project ever undertaken in Annapolis. Allowing only the bare minimum time required under law is inappropriate, especially at a time of the year when so many citizens are out of town, on vacation, or have difficulty participating. Providing an opportunity for public oral comment and discussion would be beneficial as a part of the DNEP-orchestrated process.

We strongly advise the city to exercise the maximum discretion it has under the law to provide more time for review and comment by citizens. We do not understand how it is possible for DNEP to do its own analysis, and then also incorporate fully responsible analysis of comments from many concerned and expert citizens, before acting on the FCP.

The developers have had years to develop this complex project, but citizens most affected have been provided only the minimum time required by law to respond to the latest submission of many documents comprising the FCP, as if this were just another small and insignificant project. The city should find some way of extending this time, within constraints provided by law. Because the FCP has serious problems that are already identified here and elsewhere, the best course would be to deny approval of the FCP for cause, notify the public of why the FCP cannot yet be approved, and allow the applicant to re-submit. Another, less attractive, fallback alternative would be to seek agreement from the applicant for a voluntary expansion of the time allowed for public review and comment, and for DNEP analysis before final action to approve or disapprove.

Overall Perspective

Annapolis has very little forest left. The area of the proposed development is the largest among the last. The Forest Conservation Act requires that reasonable efforts be made to protect the priority forest and requires the developer to show that the plan cannot reasonably be altered. Scaling back the development size by eliminating buildings and reducing the scale of the development should be considered before approval of the request to destroy priority forest.

Under COMAR 08.19.04.03, General Forest Conservation Plan Provisions, section B (3.) the granting of a variance to destroy priority forest requires the developer/applicant to demonstrate to the

City how the disturbance of priority forest and priority areas qualifies for a variance under Regulation 10 of the same chapter. Regulation 10 requires the developer/applicant to demonstrate that enforcement of the Forest Conservation Act would result in unwarranted hardship. This requires, among other provisions, that the applicant describe the special conditions peculiar to the property that would cause the unwarranted hardship, and requires the applicant to verify that granting the variance will not adversely affect water quality.

The AEC agrees with DNEP's letter of Sep. 13, 2102: With the exception of physically isolated stands, the entire site is considered a contiguous forest per Natural Resource Article 5-1607 c (ii): "Contiguous Forest that connects the largest undeveloped or most vegetated tracts of land within and adjacent to the site" is a priority for retention and protection. Stand A, part of Stands B, C, D and Stand E (using the Dec 2012 labels) are large vegetated tracts within the site, thus a priority for retention, and contiguous to forested tracts off site. See the "Ecological Values" sections below.

The applicants asserts on p. 18 of the Forest Clearing Justification that this project cannot be further scaled back because the four "nodes" including the Continuing Care Retirement Community, the Village Green, the commercial section and the townhomes all rely on each other, are all essential, and none is a standalone element.

This is a specious assertion which is not supported by facts or anything other than the applicants own assertion. Most communities in the City exist without retail within their development boundaries and there is more than enough retail on Forest Drive to support the additional residents proposed in this development. Smart growth means developing where services already exist, and they do exist along Forest Drive, which obviates the need to pack all the amenities onto a single development site. The attempt to characterize this development as smart growth and use this as a justification for destruction of 44.24 acres of priority forest is misleading at best and should not be accepted or given any consideration.

Developer's Priority for Retaining Environmental Resources

In the document 06-25-2014-forest-clearing-justification-(00352816).pdf p.5, the following priority was stated for retaining environmental resources:

1. Intermittent Drainage Way
2. MDE-designated "vernal pool"
3. Non-tidal wetlands
4. Steep Slopes
5. Wildlife Corridor
6. Tree stands that connect Arborist-identified tree stands

This priority order makes little sense in a context of achieving the main purpose of a forest conservation plan, retaining forest and habitat. Stating this order of priorities pretty much guarantees that its objective will not be met. Priorities would make align better if they were roughly reversed. Number 6 on the list makes no sense to the AEC. What is an "arborist identified tree stand?" The stand boundaries were submitted to DNEP and accepted in 2013. The Applicant cannot change the boundaries *post hoc* by resubmitting a kind of Forest Stand Delineation (FSD) within this FCP.

The FCP should include justification/explanation for any priority ranking on which the plan for retaining environmental resources rests. Considering that the priorities for reforestation under

COMAR 08.19.04.08(G)(2) establishing or increasing existing forested corridors states that the second priority is existing forested corridors, it would make more sense if the CSD priority order #6 that calls for tree stands to connect with other tree stands, should be near the top of the list.

Under the heading Summary of Forest Conservation Act Standards on p. 16, the applicant rightly cites that they must demonstrate: a) how techniques for retention have been exhausted, and b) why priority forest and priority areas are not being retained. However, it omits the requirement under COMAR 08.19.04.03(B)(3) to demonstrate how the disturbance to the priority forest qualifies for a variance in accordance with Reg. 10 of that chapter.

CSD Claims Regarding Unwarranted Hardship

The FCP notes 82.24 acres of Priority Forest, but asserts that preserving the entire Priority Forest "would create an unwarranted hardship by preventing development on virtually all of the property" and "could be construed as an illegal taking." This is a straw man argument. Nobody holds that all development rights on property containing forest would or could be denied to an applicant. The AEC believes, however, that project reconfiguration and rescaling are necessary to preserve essential environmental values, and that this can be accomplished without creating undue hardship as defined in law and in case law.

The justification for clearing priority forest appears entirely based on a desire to maximize the profitability of the project. Reducing the profitability of a project by reducing the extent of the development in order to address forest conservation and other environmental objectives, does not itself create an unwarranted hardship.

Refer to *Belvoir Farms Homeowners Ass'n v. North*, 355 Md. 259 (1999) (in the context of a variance, an unwarranted hardship is equivalent to the denial of reasonable and significant use of the property); see also *Loyola Federal Sav. & Loan Asso. v. Buschman*, 227 Md. 243 (1961) (it is settled Maryland law that the fact that some use other than that which is permitted under a zoning ordinance would be more profitable than a permitted use, is not enough to invalidate a use restriction if the property can reasonably be used for some purpose for which it is adapted).

This point is also more simply expressed as: "if reasonable use exists, generally an unwarranted hardship would not." *North v. St. Mary's County*, 99 Md. App. 502, 517-518 (1994) (holding that denial of requested variance to build a gazebo on a property already used for residential purposes is not an unwarranted hardship). It is therefore reasonable to require the developer to further modify the project to reduce impacts to the priority forest areas.

The City's decision to disallow destruction of the priority forest in the area south of the intermittent stream would in no way constitute an unwarranted hardship, especially considering that the applicant also proposes destroying priority forest designated for preservation located north of the intermittent stream. There is no doubt that if the city allows destruction of close to 30 acres of priority forest for retail, commercial and assisted living residential units, then under the current case law this would surely be deemed as allowing more than "reasonable use" of the property.

The developer compares their current site plan to a prior site plan as part of their justification. This is irrelevant (especially considering that both plans significantly exceed the footprint proposed during the annexation hearings). Current site conditions, as described in the Forest Stand Delineation, are the

legal starting point of a Forest Conservation Plan, not a concept plan created before the FSD was approved.

When the site was annexed into the City in 2006, the owners promised small three to five acre farmettes with white picket fences and horses strolling about and water access to the public and that all 75 acres of Mas Que Farm would be preserved in a permanent conservation easement. So far, no easement has been placed on the 75 acres and the owner has rescinded her promise to allow public access to the creek, while quadrupling the size and scope of what was described to the Planning Commission and City Council when they voted to allow the annexation of the site into the City.

No justification is given for why the particular 44.24 acres of priority forest must be destroyed. Moreover, the applicant has not demonstrated that destroying 44.24 acres of priority forest, and replacing it by developed land, will not adversely affect water quality. Forest is the land cover that is most protective of local streams and the Chesapeake Bay. It adds the lowest load of nutrient and sediment pollution. The applicant has provided no quantitative information about the additional pollution loads that will accompany development. The AEC believes they will be significant and will adversely affect stream and Chesapeake Bay water quality.

Ensuring Forest Contiguity

While the main Continuing Care Retirement Community building (CCRC) in this submission is placed north of the intermittent stream, the AEC finds that the FCP is inadequate for retaining forest contiguity. Alarming, cottage units planned south of Wetland B and the intermittent stream will eliminate and fragment high quality forest.

The AEC mentioned in prior comments concerning the Forest Stand Delineation, that the forest boundaries are inaccurate in places, and show less contiguity than actually exists. For example, the forest is contiguous across Crystal Spring Farm Road. The unbroken tree canopy, which meets the normal definition of forest contiguity, is vital for many bird species that thrive in this forest. Also, the area between Stand A and the forest to the southwest is much more contiguous than depicted on the FSD and FCP. In fact, AEC members, with permission from the owner, measured this area and the narrowest point between these exceeds 110 feet.

The AEC recommends increasing the buffer around the intermittent stream to 300 feet and permitting the development to take place only north of the stream.

Ecological Values: Specimen Trees

The highest quality priority forest is dominated by large white oaks, containing wetlands, drainage headwaters, numerous specimen trees, few invasive species (primarily along an old road), a diverse forest structure (rated "Good" in the FSD), and high regenerative potential. The AEC, during a permitted visit, measured two representative canopy white oaks in different parts of the stand with diameters at breast height of 18.7" and 17.6", corresponding to a stand age of at least 80 years. Many trees are much bigger than this. Historic aerial photos confirm that this forest is at least this old. The high canopy and dense understory provide excellent forest bird habitat. Forest health appeared excellent during AEC's visits from 2011-13, with only occasional snags or downed logs (which actually are important habitat elements). The stand contains numerous oak seedlings, indicating good

recruitment and long-term persistence. It serves as essential wildlife habitat and a broad-scale corridor linking offsite forest, as recognized by Anne Arundel County's Greenways Master Plan.

The FCP proposes to remove 17 specimen trees with diameters at breast height of 24 inches or greater. Pursuant to the Forest Conservation Act, such trees "shall be considered priority for retention and protection, and they shall be left in an undisturbed condition unless the applicant has demonstrated, to the satisfaction of the State or local authority, that the applicant qualifies for a variance under § 5-1611 of this subtitle..." MD. CODE ANN. NAT. RES. § 5-1607(c)(2)(iii). The Act states in § 5-1611 that the "State and local authorities shall provide for the granting of variances to the requirements of this subtitle, where *owing to the special features of a site or other circumstances*, implementation of this subtitle would result in unwarranted hardship to an applicant. MD. CODE ANN. NAT. RES. § 5-1611(a) (emphasis added). The law provides two guidelines for the development of variance procedures by local authorities. They shall (1) "[b]e designed in a manner consistent with the spirit and intent of [the Forest Conservation Act]"; and (2) "[a]ssure that the granting of a variance will not adversely affect water quality." *Id.* at § 5-1611(b).

Ecological Values: Forest and Wildlife

The FCP fails to describe how the ecological values of forest and wildlife will be preserved.

Over 200 bird species, including many interior forest passerines, have been found on the property. This is one of very few properties remaining in Annapolis with habitat suitable for these birds. According to Ross Geredien, a professional biologist with expertise in ornithology, the following birds listed by Maryland Dept. of Natural Resources (DNR) as having the greatest conservation value, have been confirmed breeding at the property:

- Field Sparrow
- Acadian Flycatcher
- Brown Thrasher
- Eastern Towhee
- Hairy Woodpecker
- Wood Thrush
- Scarlet Tanager
- Pileated Woodpecker

"There are several other species," he wrote, "at least 20 more, on the list that overwinter on or migrate through the property but that do not breed there in the summer. Typically, breeding habitat is the most critical for species conservation, but wintering and stopover areas are important for species as well. Hence the overall value to birds of greatest conservation need is quite significant. A few of the species, like Brown Thrasher, Eastern Towhee, and Field Sparrow, actually are there year-round."

Forest fragmentation has many negative effects including promoting the spread of invasive species and impacting sensitive native wildlife. Several of the birds on the list above require large areas of contiguous interior (away from edges) forest to breed successfully.

Ecological Values: Wetlands and Hydrology

The Crystal Spring property has a seasonally high water table throughout much of the site, and contains several acres of functional wetlands. These provide important ecosystem services, including abatement of stormwater runoff, groundwater recharge, and maintaining water quality in Crab Creek

and the South River. In addition to the intermittent stream that drains through the center of the property to the south, there is also a smaller drainage to the west of this stream that provides periodic surface flow from the wetlands in the 80+ year old white oak-dominated stand, and several smaller areas of hydric soils that weren't noted on the consultant's maps. The forested wetlands are likely linked via subsurface flow as well, as most of these soils are permeable sandy loams.

Conversion of contiguous forest to buildings, roads and parking lots is likely to alter site hydrology, including the perennially flooded wetland at the south edge of the property (which the intermittent stream drains into). It could scour out the intermittent stream and thereby deliver sediment into the perennially flooded wetland and possibly offsite. Any development should be carefully planned with preservation of wetland and stream hydrology in mind.

Relocation of the CCRC building away from the most ecologically important portion of the site is helpful. However, it still infringes on the Wetland B buffer, and converts a large proportion of its drainage area from forest to impervious cover. The AEC doubts strongly that green roofs can compensate for such a dramatic change.

The proposed houses sited within in the mature forest existing in the south will have a major impact in terms of forest loss and fragmentation. They also infringe on the buffer of wetland B. The AEC urges that these houses be moved to a less damaging location well north of the intermittent stream and its drainage.

Wetland F is not isolated. There is periodic surface flow east from this area, through a drainage pipe, and into an ephemeral drainage ravine that empties into the intermittent stream. We urge an independent review of this and other non-tidal wetlands on the site. The developers continue to plan a stormwater management pond ("#6") that drains into the intermittent stream through a steep, highly erodible valley, even though state law requires Environmental Site Design techniques be employed to the maximum extent practicable. Adding additional stormwater will almost certainly erode the sandy soils there. The developers plan to route most of the stormwater from the retirement cottages and adjacent buildings this way. The AEC recommends an alternative solution that does not alter existing hydrology and threaten natural features.

At least one wetland, a vernal pool, is not mapped on the FCP, and should be included. The grassy vernal pool in the southwest portion has been observed holding standing water, supports amphibian breeding (e.g., spring peepers), and contains hydric soils (according to a core performed on April 18, 2013). Vegetation is affected by repeated mowing, and a sizeable drainage pipe removes standing water quicker than at the forested vernal pool to the north of it. The AEC has recommended for well over a year that the city examine this vernal pool using a certified wetland delineator independent of the developer.

The AEC supports functional wetland and stream buffers (generally at least 100 feet, but it depends on surface and groundwater flow), rather than the state regulatory minimum of 25 feet. 25 feet is insufficient to protect against altered hydrology, increased sediment and pollutant input, wind throw, increased solar radiation, invasive species, songbird predators, and other edge effects. Amphibians like spring peepers and wood frogs require contiguous forest to move between breeding sites and feeding areas. The AEC requests an analysis by a qualified wetland professional not affiliated with the developer that delineates buffers that will actually protect the wetlands (e.g., Wetland B, which is

surrounded by fill, buildings, and roads in the current plan) and drainages from negative impacts, and provide additional measures needed to protect existing hydrology and habitat.

The City has agreed not to permit the alteration of the hydrology on this property and has the authority under both the Forest Conservation Act as well as Chapter 21.62.080 *Surface water drainage*. It states that "A proposed development shall be designed to provide for proper surface water management through a system of controlled drainage that, wherever practicable, preserves the existing natural drainage patterns and wetlands, enhances groundwater recharge areas..."

Roads

Deletion of a road previously indicated as crossing the intermittent stream and bisecting the forest, is helpful to reducing forest destruction and fragmentation. However, a planned road embankment will affect the hydrology of Wetland B so the AEC recommends measures that will not affect hydrology.

Tree Canopy

The submitted forest clearing justification is incorrect in asserting that the project will "increase the tree canopy to 54%, which exceeds the City of Annapolis Comprehensive Plan Goal for 2036 of 50%."

It is wrong in its implicit assumption that the goal applies to individual properties, rather than to the aggregate of all properties comprising the City *in toto*, and is misleading in its conclusion. Among all private tracts, the proposed Crystal Spring development project comprises the largest forest in the City and now contributes the largest single source of canopy cover toward meeting the Annapolis-wide goal. It is obvious that cutting trees to make way for the development will *reduce* that contribution, and take the city backward in its progress toward its overall tree canopy goal.

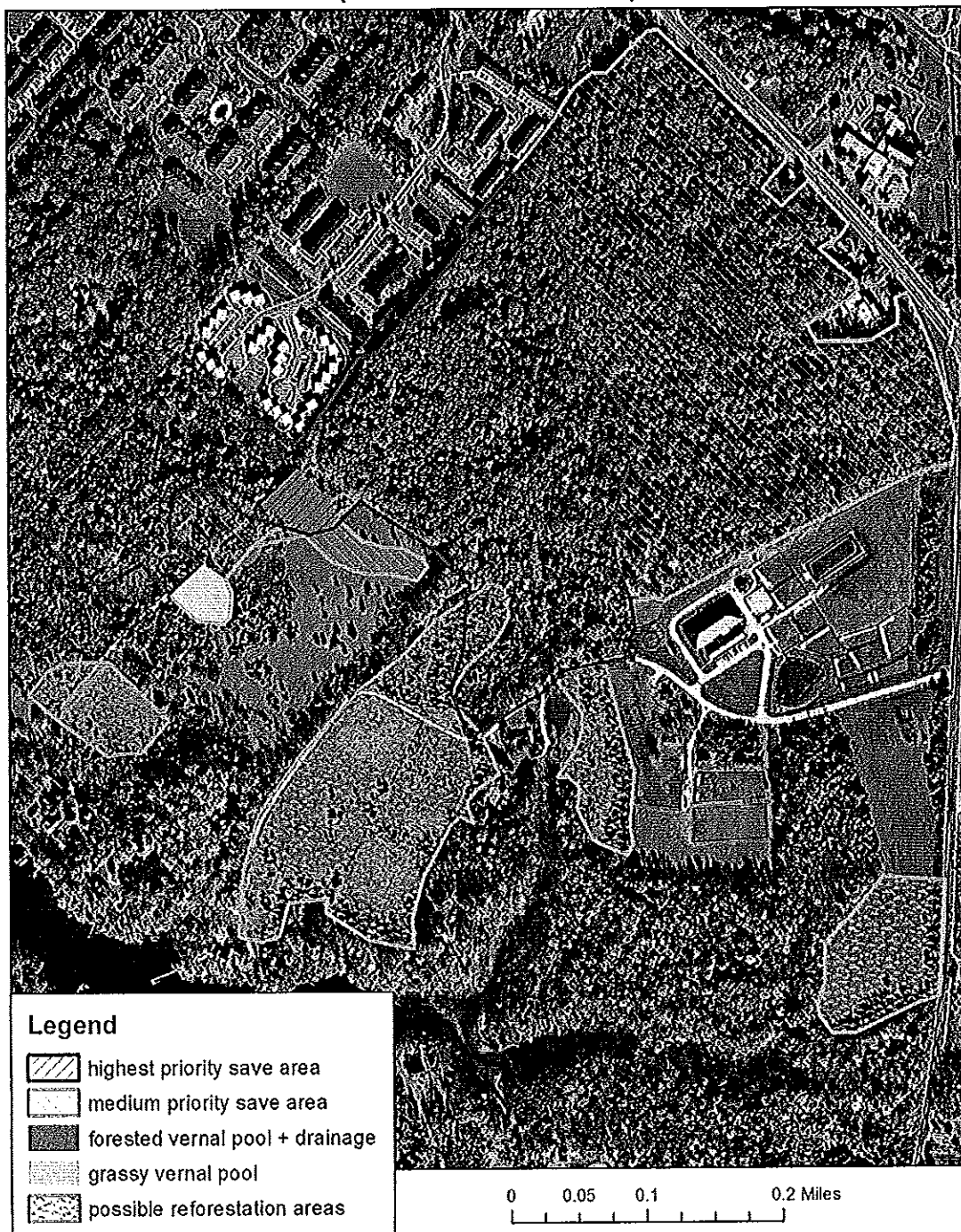
Mitigation of environmental impacts

The developers should avoid and minimize negative impacts to the forest, wetlands, hydrology, and other natural resources to the degree possible. Impacts not avoided should be mitigated. To conform to the city's goal of increasing rather than decreasing tree canopy, all forest removed should be replaced at least acre for acre. The AEC identified some possible reforestation areas (Figure 1 below) that would improve forest connectivity and contiguity and help protect Crab Creek and the South River.

Street trees should not qualify toward forest mitigation. Replacement should be native forest (e.g., oak-hickory, or whatever species mix is appropriate for the planting site). One should keep in mind it will take 80 years to regain what's been lost, and even then the new forest will be behind the curve. For that reason, and because so many planted trees die, the AEC favors 2:1 to 4:1 afforestation ratios (similar to wetland requirements and the city tree replacement code, with the ratio depending on the age and condition of the forest destroyed). Also, any mitigation projects should be monitored (at least 5 years, with 10 preferable), and dead trees replaced. MDE requires 5 years of monitoring for wetland projects.

Fig. 1. Map produced by Annapolis Environmental Commission in 2012 of priority reforestation and preservation areas on the Crystal Spring property. If undeveloped, the field south of the priority forest block would be the best afforestation site."

Crystal Spring Conservation and Restoration Areas (DRAFT 10-3-2012)



The Crystal Spring forest is a significant local carbon sink. If converted as planned, it will become a huge carbon source instead, increasing the city's contribution to climate change despite the goals of its sustainability plan. As the city pledged to reduce rather than increase its greenhouse gas emissions, the AEC would like the city to calculate the change in carbon storage and atmospheric CO₂, and recommend measures to mitigate these impacts.

Green Development Initiatives mentioned in the FCP are potentially helpful, especially those relating to parking, if the "under buildings" parking includes the creation of multilevel parking that will significantly reduce impervious surface area. Others of these initiatives have not been evaluated but we surmise that their collective effectiveness is dwarfed by the removal of forested area contemplated by the FCP.

On-site and Off-site Mitigation

Mention is made of possible voluntary restoration of watercourses flowing from offsite drainage areas. While such activities may be commendable, they do not begin address the very large negative impacts that will be created on-site. The scale and effectiveness of such off-site mitigation efforts is not quantified and is not relevant to the project itself which must focus on on-site environmental efforts.

Crystal Spring Development LLC (CSD) cites their agreement with the South River Federation to undertake improvements to stormwater drainage to Crab Creek as part of their justification to destroy 44.24 acres of priority forest out of a total of 82.24 priority forest acres on the site. This gesture cannot be considered as part of the rationale to award a variance to the developers. The Forest Conservation Act aims to protect priority forest and the only mitigation measures contemplated under the Act are on-site or offsite reforestation or payment to a fund used for reforestation as mitigation measures after all techniques and retention options have been exhausted. (See Md. Nat Resources Code Ann 5-1607) The Act does not contemplate or recognize any other types of restoration measures as equivalent to retention of retaining priority forest, nor does it recognize them as justification for destruction of priority forest. Therefore, this factor adds no weight to the case for granting a variance.

Afforestation Plan

- (1) "Forest land" means a biological community dominated by trees and other woody plants ... at least 100 trees per acre with at least 50% of those trees having a 2-inch or greater diameter at 4.5 feet above the ground.
- (2) "Forest land" includes forested areas that have been cut but not converted to other land uses.

Street trees should not count toward mitigation. They do not remotely compensate for the destruction of naturally functioning mature forest. Neither does the state consider isolated trees as forest. The AEC urges the city to require any credited afforestation to be contiguous with existing natural forest and to improve contiguity and connectivity.

Tree replacements under City Code Chapter 17.09.070 must be enforced, such as requiring two trees on site for each tree removed, when diameters are between 18" and 24," etc. The developer did

submit details showing there were 178 trees between 24" and 30" DBH with many of them removed in the development plans.

Rows of decorative street trees do not remotely mitigate destruction of 44.24 acres of mature functioning contiguous forest. The applicant should be required by the City to replant at least 44.24 acres of forest that are destroyed during development, and because it takes 80 years for a tree stand to mature and provide the ecological benefits that had been provided by the existing priority forest, the City should apply the higher 2:1 ratio when applicable under the Code. All reforestation should be on-site.

The City Code gives authority to the City to require replanting of trees removed during development. Chapter 17.09.070 establishes guidelines to allow development while also minimizing impacts to existing woodland communities and to encourage reforestation with species native to the area. Other stated purposes of this section of the code are to establish standards of practice for the preservation of trees and the environmental design of landscapes in development areas in order to better control soil erosion and the transport of sediment, improve the environmental quality of surface and ground waters, screen noise, and preserve, protect and enhance wildlife habitat.

Furthermore, the section provides that where any provision of the Forest Conservation Act (FCA) and a provision of the City Code both apply, the more restrictive requirements may be employed. Therefore, even if the FCA does not require reforestation, the City code section can apply and require reforestation for a development. The code under section 17.09.070 (F) even notes that the reforestation required by the Forest Conservation Act should be considered the minimum applicable standard for replacement of trees.

Applicants seek to destroy 44.24 acres of priority forest by concentrating their buildings near Forest Drive where the priority forest is dense, mature and functioning well. Because the City will lose the ecological value and water quality value of the only remaining large tract of priority forest, and considering the loss of these acres will set the City back 44.24 acres from our tree canopy goal, the City should strictly require replanting of the trees on the replacement basis set forth in table 17.09.070.

To conform with the city's goal of increasing rather than decreasing tree canopy, all forest removed should be replaced at a minimum 1:1 ratio, and should be replaced at a 2:1 ratio when diameters are between 18" and 24," as provided for in the Code.

The areas identified by the AEC identified as possible reforestation/afforestation areas (Figure 1 above), which are below the intermittent stream, would improve forest connectivity and contiguity. Also creation of forest cover closer to the water will help protect water quality of Crab Creek and the Chesapeake Bay. It should be noted that all of Maryland including Annapolis is subject to a federally imposed Total Maximum Daily Load that requires reduction of pollution and improvement of water quality. Maintaining forest cover is one of the best and least costly strategies to reduce pollution.

City code intends that tree replanting be on-site unless this cannot be accomplished. With a 110 acre development site, there is plenty of space for reforestation on-site. To maximize replanting onsite, we recommend that all development be confined to the area above the intermittent stream and that afforestation/reforestation occur below the intermittent stream. Other afforestation should be limited to the Crab Creek watershed and be configured to increase forest connectivity and contiguity.

The Forest Conservation Prototype Easement (Exhibit B)

This is difficult to evaluate for relevancy at this point, since it appears to be prototypical boilerplate that serves mainly as the starting point for a substantive easement. This could be important, or cosmetic green-washing, depending on what lands and features it will actually cover, and other details not yet specified. The prototype appears to contain many loopholes limiting its effectiveness if owners in later years seek to escape its intent. Moreover, the public and the city have a strong interest in public access to areas that are protected under a conservation easement, but this prototype appears to assume as its default denying public access.

Because public access to natural areas is already severely limited, the city should seek to secure commitments from the developers for public access to areas that contain significant natural environmental and ecological amenities. A development of this scale will exact large environmental and other public costs and it is not unreasonable for the city to seek to achieve public access in partial compensation.

Summary

For the reasons stated above, the AEC urges the City of Annapolis to reject the Preliminary FCP and associated documents, as detailed above, and to require revisions that satisfy these concerns.

Sincerely,



Kurt Riegel, Chairman
Annapolis Environmental Commission

PDF version of this document is available at kurtriegel.com/acc-cs.pdf

CC: Mayor Mike Pantelides, Alderman Joe Budge, Alderman Fred Paone, Alderwoman Rhonda Pindell Charles, Alderwoman Sheila Finlayson, Alderman Jared Littmann, Alderman Kenneth Kirby, Alderman Ian Pfeiffer, and Alderman Ross Arnett

Subject: Crystal Spring Response to No-Growth Misrepresentations and Inaccuracies

Mayor and Alderpersons

In the past few days/weeks, the no-growth activists have submitted letters to the newspaper and started an online petition. Although their methods are familiar, the misrepresentations and inaccuracies contained in these communications demands a factual reply by Crystal Spring. The repeated misrepresentations and inaccuracies call into question the credibility of those who would promulgate this information and I ask you to keep that in mind as the Crystal Spring project continues to work its way through the City of Annapolis approval process.

We have changed the nature of our website so that it now serves as an informational blog to present factual and accurate information about the project. Our recent postings can be found at <http://www.crystalspringannapolis.com>. The two most recent postings are in direct response to the no-growth advocates and their repeated misrepresentations and I encourage you to read these posts to have the benefit of accurate information. If you are on Twitter, we encourage you to follow our feed — <http://www.twitter.com/CrystalSpring> — where we will post additional updates and links to the latest posts.

If you have any questions or would like to discuss any of this information, please feel free to contact me.

Best Regards,

Andrew Bing
Community Spokesperson
Crystal Spring Annapolis

Mayor and Alderpersons

Unfortunately the twitter link I provided was missing a character and therefore takes you to the wrong account. The Crystal Spring Twitter handle is @crystalspring_ The correct link is – <http://www.twitter.com/crystalspring>

Thanks
Andrew Bing



CHESAPEAKE BAY FOUNDATION
Saving a National Treasure

July 31, 2014

Maria Broadbent, Director
City of Annapolis Department of Neighborhood and Environmental Programs
City Hall
160 Duke of Gloucester
Annapolis, MD 21401

Sent via email

RE: Crystal Springs Preliminary Forest Conservation Plan submitted on June 25th, 2014

Dear Ms. Broadbent:

The Chesapeake Bay Foundation thanks you for the opportunity to comment on the Forest Conservation Plan (FCP) submitted by the Crystal Springs Development (CSD). The proposed development calls for the clearing on 44.24 acres of priority forest within the City of Annapolis.

Forest cover is one of the most cost-effective and multi-purpose "best management practices" (BMPs) to prevent pollutants from reaching local streams, rivers, and ultimately the Chesapeake Bay. Trees have the ability to address a number of key pollutants that must be reduced under the federally issued Chesapeake Bay Total Daily Maximum Load (TMDL): reducing erosion by holding soil in place; reducing nitrogen and phosphorus in the soil; and slowing down and filtering polluted runoff. In many cases, trees can also remove nitrogen from the air, which accounts for at least one-third of all nitrogen pollution to the Bay.

The importance of urban forests has become clearer as agencies and communities study the issue. For example, a recent federal study published in the journal *Environmental Pollution* determined that trees save more than 850 lives and prevent 670,000 cases of acute respiratory symptoms a year by reducing pollutants in the air. An article detailing some findings of that report is attached ("Trees soak up contaminants, provide \$7B in U.S. health benefits a year"). Significantly, the study found that trees located in urban areas were most important for human health and pollutant removal.

Trees not only improve air and water quality, but they also provide shade and beauty to urban communities. These pollution reduction qualities can lead to real monetary benefits for small communities. In Prince George's Forest Heights, Mayor Jaqueline Goodall was inspired to improve tree cover in her town after an analysis showed the town's tree cover saved the town more than \$10,000 annually in stormwater management costs. An article detailing her efforts is attached ("In Forest Heights, tree initiatives take root").

The City of Annapolis, like all jurisdictions in the Chesapeake Bay watershed, is required to make pollution reductions under the Bay TMDL. Unfortunately, due to a number of factors, making pollution reductions in urban areas is among the most costly. That is why it is important for local

governments to consider the pollution reductions that will be necessary to offset new pollution loads when directing growth in their jurisdictions.

Based on Chesapeake Bay Program Model 5.3.2, which does not factor in BMPs, estimations are that the whole Crystal Springs development would increase nitrogen loads to South River by 339.73 pounds over its current forested land use, simply by converting forested land to high intensity impervious. Approximately 60.7 pounds of that nitrogen would come from the back half of the development near Crab Creek, where it is unlikely to be treated because of the close proximity to the water. Phosphorus loads would increase by 93.39 pounds across the entire development, 23.03 pounds of which would be delivered directly to Crab Creek with little potential for treatment. These loads are due to land use conversion alone. We would expect actual delivered loads to be less if Environmental Site Design (ESD) is implemented to the maximum extent practicable. However, we would also expect additional loads from the development to reduce capacity within the Annapolis Wastewater Treatment Plant (or the receiving wastewater treatment plant). Consideration of a wastewater treatment plant's capacity and discharge is important for local governments, as the state continues to work on developing a nutrient trading program.

As noted in the Chesapeake Bay Foundation's letter to Mayor Pantelides of April 28, 2014, the City has the authority to limit development within this ecologically important area of Annapolis. Limiting development at this site is particularly appropriate in light of the risks to local waterways and the high costs of additional pollution loads associated with development. We encourage the Mayor and the City Council to use all available tools to ensure that local waters are protected. There is no doubt that the preservation of trees is one of the most cost-effective ways to achieve this goal.

Sincerely,

A handwritten signature in black ink, appearing to read "Elaine Lutz", with a stylized flourish at the end.

Elaine Lutz

Staff Attorney

Chesapeake Bay Foundation

Trees soak up contaminants, provide \$7B in U.S. health benefits a year -- study

Amanda Peterka, E&E reporter
July 30, 2014

Trees save more than 850 lives and prevent 670,000 cases of acute respiratory symptoms a year by soaking up dirty air, according to a new federal study.

Forest Service researchers and collaborators found trees clear the air by removing pollutants and altering local climates. Although trees contribute less than 1 percent of all average air quality improvement, the associated human health effects are worth about \$7 billion, the study found.

"With more than 80 percent of Americans living in urban area, this research underscores how truly essential urban forests are to people across the nation," said Michael Rains, director of the Forest Service's Northern Research Station and the Forest Products Laboratory, in a statement.

Other studies have analyzed trees' ability to remove air pollutants, but few have linked pollution removal by trees to public health effects and lives saved.

The study, published last week in the journal *Environmental Pollution*, analyzed trees' impacts on four Clean Air Act criteria pollutants: nitrogen dioxide, ozone, sulfur dioxide and particulate matter finer than 2.5 microns. It was funded by the service and conducted using models.

Researchers found trees remove air pollutants several ways. They soak up gaseous pollutants through pores in leaves. Once inside a tree, the pollutant diffuses into spaces in cells, is absorbed by water or reacts with leaf surfaces. Particulate matter or soot, on the other hand, tends to cling to the surfaces of the trees.

Trees are responsible for removing more ground-level ozone -- a component of smog -- than any other pollutants studied. The monetary value of ozone and particulate matter removal topped the list of the trees' air-quality services.

In all, trees removed more than 17 million tons of air pollutants in 2010, the study found.

Effects depend on the amount of tree cover in an area and vary throughout the United States, the report says.

Although average tree cover in the United States is 34.2 percent, it varies state-by-state from 2.6 percent in North Dakota to 88.9 percent in New Hampshire.

"As people and trees exist throughout a landscape in varying densities, not only will pollution removal and its effects on local pollution concentrations vary, but so will the associated human health impacts and values," the study says.

When it comes to their ability to reduce human health impacts, trees located in urban areas tend to be more important than those in rural areas because of their proximity to more people.

"We found that in general, the greater the tree cover, the greater the pollution removal, and the greater the removal and population density, the greater the value of human health benefits," said Dave Nowak, project leader and research forester at the Forest Service's Northern Research Station.

The study didn't address the relative impacts of trees in rural areas surrounding urban areas. The study notes that poor tree health could limit their ability to capture pollutants.

The Washington Post

In Forest Heights, tree initiatives take root

By Arelis R. Hernández
July 27, 2014

There are few things Forest Heights Mayor Jacqueline E. Goodall considers to be as lovely as a tree.

Since she was elected to lead the small Prince George's County town in 2007, Goodall has made it her mission to help Forest Heights live up to its arboreal namesake, planting more than 2,000 saplings along public right-of-ways.

Her motivation is more than aesthetic. Goodall's tree-planting crusade is part of a growing awareness among officials in the county of the benefits of maintaining a healthy urban forest. That awareness is leading to marked efforts to improve the tree canopy in Prince George's.

"Trees are awesome," Goodall said recently inside her office, surrounded by large satellite images of Forest Heights' topography. "It wasn't until I learned what they can do that I understood how much value trees bring to the community."

In recent years, Prince George's has set tree-planting requirements for developers building inside the county, along with other environmental measures that are needed for site plan approval. Last week, the County Council passed a resolution that would increase the number of shade trees — trees that grow taller than 40 feet — along public roads and sidewalks frequented by pedestrians.

Council member Eric Olson (D-College Park), who co-sponsored the bill, said more shade should translate to savings. Federal researchers have found that trees help cool air temperatures in the summer and lead to lower heating costs in the winter.

"We want to make it easier and more comfortable to walk in our communities whether that is to stores, transit centers or schools," Olson said.

Environmentalists have long touted the perks of trees in urban landscapes: They reduce air and water pollution, stem stormwater runoff, beautify neighborhoods and represent a crucial part of the ecosystem, the U.S. Forest Service says.

But in recent years, the argument for more trees has become an economic, public health and environmental justice matter. Advocates say planting trees is a low-tech, cost-effective strategy for mitigating myriad problems.

C.J. Lammers, a master environmental planner for Prince George's, said the trees that cover 52 percent of the county's land provide millions of dollars in annual benefits in stormwater management.

Trees can absorb thousands of gallons of polluted rainwater that would otherwise run off parking lots, sidewalks, roofs and roads and seep into waterways that flow into the Chesapeake Bay. Trees with extensive root systems help filter out the pollutants.

"That's infrastructure we would have to build and maintain if the trees weren't there," Lammers said. "We know trees clean the air and help with stormwater, but for the first time we are putting dollar values on it."

While the county's tree cover is adequate by national standards, it is concentrated in more affluent and rural areas of the county, mostly outside the Capital Beltway, officials said. Communities such as Forest Heights — which tend to be older, poorer and mostly black — have far fewer trees.

A recent study found a correlation between a community's tree cover and the wealth of its residents.

Goodall and other tree advocates said they want to make it more equal. More trees in a neighborhood, they said, can increase property values.

"Unfortunately in minority communities, tree planting is not at the top of things that are priorities for families dealing with lots of other issues," Goodall said. Getting her citizens to support her "green" initiatives took years of effort.

She commissioned an analysis in 2010 that found the town's current tree inventory intercepted more than 1 million gallons of stormwater each year. That saved the town more than \$10,000 annually in stormwater management costs, the analysis said.

Maryland passed a law in 2012 requiring local governments in nine counties, including Prince George's, to levy a stormwater management fee. But Goodall was able to secure a partial rebate of the fee for Forest Heights because of the environmental measures the town had adopted.

Crape myrtles and willow oaks had been planted around the town hall parking lot. Using grants, Forest Heights purchased rain barrels, fashioned a green roof on the town hall, installed seven rain gardens around the property and laid down pervious materials.

Other Prince George's cities, including Hyattsville and Bowie, soon followed with their own studies to sustain and improve their tree canopies.

To educate her town, Goodall had to learn it all herself first. She grew up in Michigan City, Ind., about a mile from an industrial waste dump that the Environmental Protection Agency later declared a Superfund site.

She remembers playing at a creek near her home and finding frogs and turtles with mutations that, she later realized, were caused by groundwater contamination. After being elected to the Forest Heights Town Council, she reached out to nonprofit organizations, researchers and environmentalists to teach her more about the connection between the environment and human health, and read everything she could find on the topic.

"Mayor Goodall is a natural leader," said Kelley Okleson of the Neighborhood Design Center, a Riverdale Park-based nonprofit group that offers free design services. "She communicates for the trees and to the people, connecting them both."

I have carefully read and re-read the materials provided to the City of Annapolis and displayed on the city's site for Projects Under FCA Review regarding the Crystal Spring Development. This project has been hotly discussed and many groups have been sending out position statements about this project and asking for citizens to make comments or sign petitions. After hearing so many differing opinions and supposedly factual and often conflicting statements I was pleased to find unbiased un-emotional information of the FCA sight. After studying the site, I have determined that this development will be a terrific addition to the County and City that I love!

This project is to be commended. It saves the majority of land as forest, improves the South River (where I live), is in accordance with the intentions and directives on the city of the Annapolis 2009 comprehensive plan and even goes further than required by both State and city of Annapolis. I am very impressed by the environmental building methods being used such as the permeable asphalt. Whenever I have talked with developers about this product and why they aren't using it I am told is far too expensive to be practical. The green roofs and run off protection methods are to be applauded.

This project is an outstanding example of what can be done when good city planners and developers work together. Please don't let the incorrect rumors and not factual, blog writers stop a good project in our city.

Veronica Tovey
West Street
Annapolis, MD 21041

July 31, 2014

Ms. Maria Broadbent, Director
City of Annapolis Department of Neighborhood
And Environmental Programs
City Hall
160 Duke of Gloucester
Annapolis, MD 21401

Re: Comments on Crystal Spring Preliminary Forest Conservation Plan

Dear Ms. Broadbent,

Thank you for allowing the 30 of us to comment on the June 25, 2014 Crystal Spring Preliminary Forest Conservation Plan (PFCP). We had previously communicated our concerns, questions, and objections to any approval of the PFCP in conversations and via email. We also submitted formal comments to you in our letter of June 21, 2013. Many of those concerns, questions, and objections still remain with the new filing. Other people and entities, including the Annapolis Environmental Commission, have filed such comments as well.

These comments are submitted by the 30 undersigned signatories and we are urging you to reject outright the Crystal Spring Preliminary Forest Conservation Plan along with the variance request and stormwater, grading, and other approvals sought.

The following comments document why this request should be honored. Further, the very body the City Code establishes as the City's environmental watchdog to advise the City on such important environmental matters as this massive development—the Annapolis Environmental Commission--had documented to you why they concluded that the "AEC urges the City of Annapolis to reject the Preliminary FCP and associated documents." See their letter to you of June 17, 2013.

1) DNEP SHOULD NOT PROCESS THE PFCP PENDING ADOPTION OF A FOREST CONSERVATION ORDINANCE BY THE CITY.

The City has adopted by reference the State Department of Natural Resources model Forest Conservation Act ordinance. However, in failing to enact its own ordinance, many gaps in applying the law exist. For example:

a. There are no procedures spelled out by the City for public input, hearings, or comments on the review and approval of FCP's before the City. In this case, the developers of Crystal Spring filed new plans for approval of their FCP on June 25, 2014. Since the City had no procedures for public review and comment or public hearings, on July 10, Gerald Winegrad called and emailed you a request for such comments and a public hearing. He advised you that many of the filings we needed to review on your web site were grossly mislabeled and it took quite a bit of time to discern how to find the pertinent maps and documents.

It was not until Tuesday, July 15 that the Mayor's office issued a notice providing for such comment with a time limit of July 31. This gives citizens only 16 days to comment on this massive project for a 111-acre tract of land with numerous filings. This time frame, announced 20 days after the filing, not only unduly limits the time for public comment, but would appear to hinder your review of public comment and the taking into consideration of that comment in your review and decision-making on the approval process for the PFCP. Unless the City is holding in abeyance any work, processing, review and decision-making on the filing until the public comment period has ended on July 31, how can the public comments have any influence on the City's decision-making since you must respond to the developer's filings in 45 days (on or about August 9)? How will any such comments be meaningful to the review process?

b. Under the Forest Conservation Act found in Natural Resources Article § 5-1603(c)(2), a local program approved by DNR shall include the following:

*A policy document, a local ordinance relating to review, approval, and appeal processes. Annapolis clearly has not done this and no such provisions appear in the City Code;

*A Forest Conservation technical manual tailored for and adopted by the City. No such document exists; and

*A City review and amendment of all current ordinances and grading requirements to meet the FCA requirements. This also has not been done.

c. Under the state FCA technical manual at COMAR 08.19.04.11, Public Notice, the Department of Natural Resources shall issue a public notice of an opportunity to submit written comments or to request a public hearing after the Department has determined that applications for a Forest Conservation Plan are complete. Since the City has not adopted such procedures, it should follow this State provision and properly notify the public with adequate time to comment and also set up a procedure for a public hearing.

d. As discussed below, the City is required by state law (State Forest Conservation Act, Natural Resources Article § 5-1611), to provide procedures for the granting of variances for the clearing of specimen trees and other trees of significance. The City has not done so and is without authority to approve such a variance request, which is pending.

We know these and other significant gaps in the City's review and approval processes under the FCA are not your fault and you must deal with these problems as best you can, but we believe that the procedural and substantive voids dictate that the PFCP be rejected until such time as the City adopts a comprehensive Forest Conservation ordinance to comply with State law.

2) PUBLIC INPUT MAY BE THWARTED BY PROCESSING APPLICATION BEFORE PUBLIC COMMENT CAN BE INTEGRATED INTO CITY'S REVIEW.

We raised this question above as to public comment: If DNEP is working on the application before the public comment period ends and may make internal decisions before the comment period ends, how can citizen's input be considered in the decision making process if the City has already made its decision and processed the application to completion or near completion? Shouldn't there be a time period set for input before the City even considers and begins processing the application?

The developers have full access to the City, have met with the Mayor and staffers, including you. They, provide the applications and then continue to give input to the City through their lawyers and others. The members of the public who will be affected by the decisions you are making also should be heard before the processing begins to help inform the process.

3) VARIANCE REQUEST AND PROCEEDING.

On May 28, 2013, an attorney for the developers filed a request with you for a variance from the provisions of the Forest Conservation Act in order to cut down 27 specimen trees (now 17) with a DBH of 30" or more. This is prohibited under state and City law unless the applicant can demonstrate that they would suffer an "unwarranted hardship" and they have exhausted all alternatives to protect these specimen trees.

You previously advised us that the City would not review this request for a variance but would simply send it to DNR for their review and approval or disapproval. However, DNEP's requirements adopted in July 2012 clearly state:

B. The following trees, shrubs, plants, and specific areas shall be considered priority for retention and protection, and they shall be left in an undisturbed condition unless the applicant has demonstrated to the City of Annapolis, Department of Neighborhood and Environmental Programs, that the applicant qualifies for a variance under MD Natural Resources Code Ann. Sec. 5-1611:

3. Trees having a diameter measured at 4.5 feet above the ground of (1) 24 inches.

The developer notes that 54 such specimen trees are present on the site and that 17 will be cleared under the PFCP before you.

Further, under the State Forest Conservation Act, § 5-1611 on Variances:

(a) In the preparation of the State or local forest conservation programs, the State and **local authorities shall provide for the granting of variances** to the requirements of this subtitle, where owing to special features of a site or other circumstances, implementation of this subtitle would result in unwarranted hardship to an applicant.

(b) Variance procedures adopted under this section shall:

- (1) Be designed in a manner consistent with the spirit and intent of this subtitle; and
- (2) Assure that the granting of a variance will not adversely affect water quality.

It appears clear that DNEP under its own rules and under state law must make a determination on the variance and must have adopted specific procedures to use in granting such a variance. We have requested on several occasions the procedures for how the City processes such variances and for how the public can weigh in on the grant of such variances but neither you, the City attorney, or the former City Administrator, has responded to this request so we are assuming the City has no procedures for granting such a variance 23 years after the enactment of the state Forest Conservation Act. We raised this same issue in our comment letter of June 21, 2013 but the City still has not complied with state law and adopted such procedures.

Since the City and DNEP have no such procedures and since the PFCP is dependent on the variance, we request that the processing of the PFCP be held in abeyance until a variance procedure is established with detailed criteria by which members of the public are given a formal procedure for providing input into the variance process. The County surrounding the City has detailed provisions for granting such variances from the County Code and has a formal application process with public notice and public input provisions and a requirement for a hearing before the Administrative Hearing Officer with a full opportunity for public testimony and for staff recommendations. Shouldn't the City do the same?

We would note that the developer's stated reasons for the City granting the variance do not come close to justifying such a variance and are completely for the convenience of the developer and to assure they can gain their maximum density and profitability. Stating that the variance should be granted because leaving the specimen trees in an undisturbed condition as required would prevent them from placing a large building (the CCRC) or that leaving the trees would be against Smart Growth is ludicrous. See Item 5) below.

In the Annapolis Environmental Commission comments submitted to you on June 17, 2013, the AEC stated: "The developer's environmental consultant provides its justification for removal of the specimen trees in a letter dated May 28, 2013 and addressed to Maria Broadbent at the City Department of Neighborhood & Environmental Programs. In a fashion similar to its justification for clearing priority forest, the developer appears to focus on an economic basis for its variance request. Specifically, avoidance of all 27 specimen trees would result in an unwarranted hardship "through a significant loss of units and developable area." M. Klebasco Letter to M. Broadbent at 2 (May 28, 2013). As stated above, a mere reduction in the profitability of the property does not on its own result in an unwarranted hardship."

We concur in the AEC's comments on the variance and the case law is crystal clear that "a mere reduction in the profitability of the property does not on its own result in an unwarranted hardship." We also concur in the other AEC comments on serious defects in the PFCP and in their call for a rejection of the PFCP and associated documents. After all, the AEC under City Code is supposed to be the City's environmental watchdog and is tasked under the Code: To be concerned with the protection and improvement of the natural health and welfare of the environment; to coordinate recycling activities; to identify specific environmental problems; and to review matters before other City bodies affecting the environment. City Code: 2.48.330.

Again, we must emphasize that the justification submitted by the applicant for a variance falls well short of meeting the statutory requirements of demonstrating that the denial of the variance, owing to special features of the site or other circumstances, would result in unwarranted hardship to the applicant in the implementation of the FCA. Allowing such variances because of having to lower density or move buildings or under some vague and incorrect assertion of Smart Growth would neuter the protective provisions of the Forest Conservation Act.

The Forest Conservation Act, wetland laws, the Critical Area Law, and other environmental protection statutes set requirements that are meant to assure that the landowner or developer modifies development proposals so as to meet the statutory goals of environmental protection. The statutory provisions of these land use laws contemplate that the landowner or developer may not be able to attain the full development footprint allowed by zoning laws.

The City should not allow the tail to wag the dog here with the developer telling the City what it wants to do regardless of such laws by claiming unwarranted hardship or, including such vague characterizations for the project as Smart Growth. Further, if the City grants the variance, how can the City justify disregarding the dead-on comments of its own environmental advisory body?

4) REQUIREMENTS FOR PROTECTION OF PRIORITY FOREST.

The developer's January 8, 2013 draft site plan that was posted on DNEP's web site was used to indicate that "only" 36 acres of forest would be cleared. Both Mr. James Eagan and Mr. Marshall Breines, Affirmative Hillspoint LLC, and their PR consultant Mr. Andrew Bing, have indicated that forest clearing on the 111 acre site will be kept to 36 of the 82 acres of forest. They so informed Gerald Winegrad of this at a meeting in Annapolis on January 8, 2013 when they gave him a copy of the new site plan that was posted on your web site shortly thereafter.

We have a letter from the owner, Ms. Richardson, sent to us on March 5, 2013, in which she notes that under the January plan, more than 50 percent of the forested acres in the 111 acre property would be retained. This is cited in making her case for how environmentally responsible the development is.

David Prosten has a copy of an email from Andrew Bing to David dated January 17, 2013 in which Mr. Bing clearly states that "our goal is to retain 44 forested acres."

The developer's web site notes under "**A Commitment to Sound Environmental Practices.**

The proposed development plan will retain more than 50 percent of the 80 forested acres on the site." See <http://www.crystalspringannapolis.com/about/crystal-spring-fact-sheet> Accessed June 30, 2014.

However, the PFCP submitted by the developers on June 25 indicates that 44.24 acres of designated Priority Forest would be destroyed, much more than one-half of the Priority Forest. This clearing would leave only 38 acres of forest. This is being touted as an improvement over their filing in May 2013 where

they raised the clearing to 48.64 acres of Priority Forest. This new plan of June 25 is said by the developer to lessen the footprint and protect more forest, but it actually results in the destruction of 23 percent more City-designated Priority Forest than the taking down 36 acres of forest as proposed back in January 2013. We firmly believe that this abrogation of written and verbal pledges by the developer should result in your outright rejection of the applicants' PFCP. Perhaps this strategy is a ploy to simply have the City approve destroying "only" 44.24 acres of forest instead of the 48.64 submitted in May 2013.

The developer's PFCP states that "76 acres of the 82 acres of Priority Forest on site is a mature, mixed hardwood forest with numerous large trees estimated to be between 80 to 100 years old scattered throughout the site." There is very little such mature forest left in the City and all efforts should be taken by the City to protect these 76 acres of Priority Forest because of the unique water quality, air quality, wildlife habitat, sediment and erosion control, natural features, and the aesthetic beauty such a forest provides. If construction must occur in the Priority Forest, it should be directed to the 8 acres of forest noted to be immature and substantially covered with invasive tree species.

The plan also fails to adhere to requirement for the preservation of sensitive areas previously indicated by DNEP staff.

DNEP clearly has the authority -- and the duty -- to enforce and assure compliance with the City and State Forest Conservation Act and assure the protection of all or mostly all of the Priority Forest. State and City law provides that: "A. The following trees, shrubs, plants, and specific areas shall be considered priority for retention and protection, and they shall be left in an undisturbed condition unless the applicant has demonstrated, to the satisfaction of the City of Annapolis, that reasonable efforts have been made to protect them and the plan cannot reasonably be altered:2. Contiguous forest that connects the largest undeveloped or most vegetated tracts of land within and adjacent to the site."

This provision was taken by the City directly from the State Forest Conservation Act requirements.

In this case, the owner of the property has induced the City to annex the property by promising to protect most of the forest and submitting a proposal for 3-5 acre farmettes at Crystal Spring, preserving the equestrian nature of the adjoining properties, with some retail/commercial development nearest Forest Drive. Here's the farmette sketch as envisioned by the owner and submitted to the City in 2005 as part of the annexation plan:



Now, the developer comes in with a proposal for a massive development on the site that would destroy 44.24 acres of forest and replace it with more than 524 housing units and 52 to 75 health care units with a performing arts center, a chapel, an 80-room hotel and spa, 160,874 sq. ft., of retail and commercial space, new roads running through the property, and 1,729 parking spaces (1,047 above grade). All of this would be built in an already over-built and dangerous Forest Drive corridor.

Does this PFCP in any possible way demonstrate to the satisfaction of the City of Annapolis that reasonable efforts have been made to protect the Priority Forests and that the plan cannot reasonably be altered? The answer should be clear and the plans should be rejected by the City's DNEP. The

developer's PFCP filing's repeated assertion that their plan exceeds Forest Conservation Act requirements for retaining and planting forest cover entirely misses the point as state law and City Code treats Priority Forest in a much more protective fashion with a strong admonition that such designated forest "shall be considered priority for retention and protection, and they shall be left in an undisturbed condition unless the applicant has demonstrated, to the satisfaction of the City of Annapolis, that reasonable efforts have been made to protect them and the plan cannot reasonably be altered."

Why not adhere to the conditions suggested by the owner of the property when the land was annexed into the City? Five-acre farmettes would yield at most 22 housing units and three-acre farmettes would yield at most 37 farmettes with no room for any other development. This is incredibly less intensive than the 524 housing units plus 52 to 75 health care units plus the massive shopping center/hotel/cultural arts center and commercial complex planned at the north end.

Please adhere to common sense and the Annapolis Environmental Commission's comments filed with you on June 17, 2013 in rejecting the application outright. As noted by the AEC:

"Annapolis has very few large blocks of forest left. The area along Crystal Spring Farm Road is one of the last. AEC agrees with DNEP's letter of Sep. 13, 2012: With the exception of physically isolated stands, the entire site is considered a contiguous forest per Natural Resource Article 5-1607 c (ii): "Contiguous Forest that connects the largest undeveloped or most vegetated tracts of land within and adjacent to the site" is a priority for retention and protection. Stand A, part of Stands B, C, D and Stand E are large vegetated tracts within the site, thus a priority for retention, and contiguous to forested tracts off site.

The justification for clearing priority forest appears entirely based on a desire to maximize the profitability of the project. A diminution in value of the profitability of the property by reducing the extent of the development does not in itself create an unwarranted hardship. *Belvoir Farms Homeowners Ass'n v. North*, 355 Md. 259 (1999) (in the context of a variance, an unwarranted hardship is equivalent to the denial of reasonable and significant use of the property); *see also Loyola Federal Sav. & Loan Assn. v. Buschman*, 227 Md. 243 (1961) (it is settled Maryland law that the fact that some use other than that which is permitted under a zoning ordinance would be more profitable than a permitted use is not enough to invalidate a use restriction, if the property can reasonably be used for some purpose for which it is adapted). It is therefore reasonable to require the developer to further modify the project to reduce impacts to the priority forest areas.

The developers compare their current site plan to prior site plans as part of their justification for the current plan. This is entirely irrelevant (especially considering that both plans significantly exceed the footprint proposed during the annexation hearings). Current site conditions, as described in the Forest Stand Delineation, are the legal starting point of a Forest Conservation Plan, not a concept plan created before the FSD was submitted and approved.

We are obliged to question the massive development proposed including a huge retirement community built on Priority Forest with an unrelated hotel and spa, 116 non-age restricted townhouses, and the huge commercial and retail development--in essence, another shopping center.

5) CITY'S TREE REPLACEMENT LAW SHOULD BE ENFORCED.

The City's Tree Replacement Requirements under City Code Chapter 17.09.070 are being ignored. The Tree Replacement Requirements apply to all developments when a grading permit, building permit, or site design plan review are required. The law allows the City to require the developer to plant two trees for each tree removed on site with a diameter between 18" and 24," and three trees for each tree removed with a diameter greater than 24". The FSD and PFCP do not even delineate trees between 18" and 24". Nor do the FSD or PFCP provide for such 2-1 or 3-1 replanting.

The developer did submit details showing there were 178 trees between 24" and 30" DBH with many of them destroyed by the development plans.

The City Code provides that the City may apply whichever provision is stricter where there is a difference between the FCA and the Tree Replacement Requirements. The law also intends the tree replanting to be on site unless this cannot be accomplished. The City should not ignore these provisions and fail to enforce the stricter provisions. How can the City even make a determination under the City's Tree Replacement Requirements, City Code Chapter 17.09.070, when the FSD and PFCP do not even advise the City as to the number of trees of 18"-24" diameter?

6) THE DEVELOPER'S PLAN DOES NOT COMPLY WITH THE CITY'S COMPREHENSIVE PLAN; THE VARIANCE REQUEST AND CLEARING PRIORITY FOREST BASED ON ASSERTIONS OF COMPLIANCE SHOULD BE REJECTED.

The City's Comprehensive Plan delineates specific areas and the type of growth that can occur therein to assure the proper balance for the City of Annapolis. Developers frequently believe that the Comprehensive Plan can be disregarded, and submit plans that are inconsistent with the Plan and environmental goals and regulations and make statements alleging compliance, and in this case, allege that rejection of their plans would amount to a constitutional takings. However, state law requires that the City's approval of developments like Crystal Spring to be consistent with the Comprehensive Plan. See Maryland Land Use Code § 1-303.

The City's Comprehensive Plan calls for the City to protect and restore environmentally sensitive areas and other natural resources within the City, and increase the City's urban tree canopy to 50 percent of its land area by 2036. The proposed development, however, would destroy 44.24 acres of Priority Forest and destroy some wetlands and impact the buffers of others in direct conflict with the Comprehensive Plan's mandate to preserve the forested character and retain natural features on site.

The developer's plan argues that through reforestation, the forest at Crystal Spring would increase to 50 percent coverage by 2036 but they confuse the City's goal of increasing overall forest coverage in the City with their plan to permanently reduce forest coverage on site by 44.24 acres and reforesting only 6.84 acres on site to come up to 50 percent of the forest there now. The net effect of destroying 44.24 acres of forest will still be a loss of 37.4 acres of forest on the development site making it all the more difficult for the City to achieve its goal.

The Comprehensive Plan calls for a limit of 139 or 140 housing units for this property with a maximum of 167,000 sq. ft. of commercial space. This plan would be abrogated in allowing more than 524 housing units, including the main CCRC building, the 116 non-age restricted town houses and the 33 single family homes with two-car garages south of the intermittent stream plus two 20 unit apartment buildings. Mayor Pantelides has publicly stated that he directed the developer not to develop south of the stream and to use that land for on-site reforestation from forest cleared to the north. This has not been done in the PFCP.

The illustration below of two of the 33 single-family senior living homes is taken from the developer's web site accessed on July 22, 2014 at: <http://www.crystalspringannapolis.com/about/site-plan-renderings>. These homes are at the southern end of the property, below the intermittent stream and removed from the CCRC main building and the village green. The construction of these single-family homes will destroy more forest, cause more road construction, and contribute more stormwater runoff. This isolation is not Smart Growth.

Contrary to claims, we firmly believe these 33 units and the two 20-unit apartment buildings at the southern end of the property are clearly housing units under any reasonable interpretation of the term.



The City's Comprehensive Plan specifically identifies the top one-third of the Katherine property nearest Forest Drive for "Urban Center Low" development. At page 25 of the City's Comprehensive Plan, this language appears:

"Urban Center Low areas are similar to Urban Commercial areas in terms of character and building heights, but allow for a mix of land uses that is similar to Urban Center areas. These areas consist of a mix of uses that include retail, office, restaurants, and residences. Typically these areas range from two to four stories in height and include a very balanced mix of residential and commercial land uses. Residential density typically ranges from ten to twenty units per acre of land depending on the intended character. These areas serve a smaller more localized population than Urban Center, and can function as a limited intensity, walkable destination for area residents."

The huge and sprawling CCRC three-winged building as submitted is six stories high and the submittal calls for the CCRC building to go up eventually to seven stories and 90 feet in height! This 400,000 sq. ft. complex of the CCRC building and the adjoining health center has a length of 1,546' and is 73' wide. This clearly does not meet requirements for Urban Center Low as dictated in the Comprehensive Plan and should be rejected. The 54,459 sq. ft. supermarket is a huge forest destroyer and, of course, the West Marine building has no defensible connection to seniors living on the site.

Further, the Comprehensive Plan's call for a limited intensity, walkable destination for area residents is violated with the construction of 6' high barriers proposed between the 116 town houses and the CCRC complex and village green.

As to the limit of 167,000 sq. ft. of commercial space in the Comprehensive Plan, the PFCP provides for construction of 160,874 sq. ft. of commercial space. However, the four-story, 80-room hotel is not included in this calculation. This large commercial building should be included and we suggest that since adding this structure to the amount of commercial space would far exceed the Comprehensive Plan's limit, either the hotel or other commercial space should be eliminated.

7) THE TRAFFIC GENERATED BY THE PROPOSED DEVELOPMENT VIOLATES THE COMPREHENSIVE PLAN AND STANDARDS FOR TRAFFIC CONGESTION.

We submit that the limits projected in the Comprehensive Plan for this property – 139-140 housing units and 167,000 sq. ft. of commercial development – also were adopted in recognition that Forest Drive is severely overburdened by traffic from existing development within the corridor. Although access to Forest Drive is controlled by the County, and access to Spa Road is under State control, the City must assume responsibility for the amount of additional traffic that development of this property will generate.

Whether or not the City persists in alleging that only the 116 non-age restricted townhouses count against the 139-140 housing unit limit and in not counting the proposed hotel against the limit on commercial space, the City nevertheless must recognize that the 408 senior housing units and hotel would generate

significantly more traffic than would be true under the housing unit and commercial space limits in the Plan. Among other proper planning objectives, the spirit of the Comprehensive Plan is to limit exacerbation of the deplorable and dangerous traffic situation on Forest Drive. The limits on housing units and commercial space should be interpreted and applied so as to serve that legitimate goal.

In *Board of County Commissioners v. Gaster*, 285 Md. 233 (1979), the Court of Appeals upheld Cecil County's denial of approval for a proposed subdivision that would have exceeded density limits adopted by the County to implement its comprehensive plan. However, the Court further noted "if this proposed subdivision were approved, the streets contemplated in it would be spewing traffic out onto a county road which has poor vertical and horizontal alignment, poor sight distances, and narrow width . . . [T]his in itself was a sufficient basis for disapproval of the subdivision plat by the commission." 285 Md. at 249, emphasis added. Similarly, the limits stated in the Annapolis Comprehensive Plan should be interpreted and applied properly to include all housing and commercial space on the Crystal Spring property, if only to limit further degradation of the traffic situation on Forest Drive.

8) THE DEVELOPERS USE OF SMART GROWTH TO JUSTIFY A VARIANCE AND CLEARING PRIORITY FOREST SHOULD BE REJECTED.

The latest submittal by the developer again goes into quite a bit of detail about how the massive, sprawling development is Smart Growth. The opposite is true.

In a letter to former Mayor Cohen previously sent to you from 27 local leaders, we advised him that the proposed project does not meet the standards or principles of Smart Growth. This is mentioned three times and here is but one quote from that letter: "As Governor Glendening advised you 'adjacency is not Smart Growth'."

Governor Glendening is a signatory to the letter and helped write and edit the letter. He is widely known as the father of Smart Growth and is identified with this concept more than any person in America. He developed and gained enactment of Maryland's Smart Growth law. He is the President and founder of Smart Growth America's Leadership Institute in Washington, DC and speaks all over the country and world advising policy makers on Smart Growth principles.

In a February 18, 2013 email to two City Aldermen concerned with the project, Governor Glendening wrote: "From my perspective of watching similar proposals advance in MD over the last 40 years and even now as I work on these issues across the Nation, I can state with confidence that as currently advanced this project should not move ahead. It certainly is not smart growth." He also wrote in an email that: "Good people working together could improve this proposal dramatically. Many of the suggestions advanced in the letter signed by 27 concerned citizens would be excellent guides to do so." Governor Glendening also noted that: "For the good of the River [South River], the City and County and the environment overall, let us hope rational minds prevail. This could be a much improved project."

He has repeatedly stated that this project is not Smart Growth and has worked with us to try and have the City work the changes we advocate. The two-term Governor lives in Annapolis on the Annapolis Neck Peninsula not far from Crystal Spring.

The developers' use of Smart Growth to justify the flawed PFCP as well as the variance and City exemption for clearing Priority Forest should be rejected out of hand. For the City to approve the FCP and grant a variance and allow the developers' clearing of Priority Forest under Smart Growth or otherwise and for the City to find that reasonable efforts have been made to protect them and the plan cannot reasonably be altered would be ludicrous. Of course there are more reasonable efforts that can be made and the plan can be reasonably altered by eliminating much of the non-age restricted development

at the heavily wooded north end of the property as mentioned above, and by eliminating all building south of the intermittent stream. This and better clustering of the remainder of the development out of wetlands and Priority Forest land would be Smart Growth.

9) THE PRELIMINARY GRADING AND SWM CONCEPT PLAN SHOULD BE REJECTED.

Under Maryland Department of Environment (MDE) regulations as detailed in the 2011 Maryland Standards and Specifications for Soil Erosion and Sediment Control (December 2011), a developer may not grade more than 20 acres of land at a time when development commences. This means the proposed PFCP must be rejected as forest conservation plans and grading, sediment control, and stormwater plans have been filed to allow for the clearing of more than 20 acres at once. The plans clearly do not comply with MDE's required phasing to avoid soil erosion and stormwater runoff problems. MDE's requirements provide:

"4. Minimize disturbed areas.

To reduce the potential for erosion, the extent and duration of soil exposure must be minimized. Phasing and sequencing may reduce the overall sediment control practice requirements. A well designed plan will include phases or stages of development that ensure only areas under active development are exposed.

Grading is to be completed and stabilized as soon as possible after it is initiated. In order to realize these goals, the establishment of grading units is required. As defined by regulation, a grading unit is the maximum contiguous area allowed to be graded at a given time and is limited to 20 acres. Requiring adherence to a maximum disturbed area on a project will limit mass grading, improve phasing and sequencing, and encourage timely stabilization."

MDE also notes that these revisions include more stringent stabilization requirements and establishing grading unit criteria. Additionally, the Standards and Specifications now describe how an erosion and sediment control plan must be designed in concert with a site's stormwater management plan as required by the Stormwater Management Act of 2007. The Act requires an integrated review of erosion and sediment control plans and stormwater management plans via a comprehensive plan review process to ensure that environmental site design (ESD) is implemented to the maximum extent practicable (MEP) on all sites. ESD is defined in the Act as "using small-scale stormwater management practices, nonstructural techniques, and better site planning to mimic natural hydrologic runoff characteristics and minimize the impact of land development on water resources."

As part of this approach, the erosion and sediment control regulations now require developers, designers, and plan review agencies to consider runoff control from the start of the land development design process. As one of the changes, the 20 acre limit was adopted to assure that this phased approach for large land clearing would result in the first 20 acres being effectively stabilized with proper sediment and stormwater controls instituted before the next phase of land clearance is allowed. Therefore, DNEP should reject the new PFCP until this defect is corrected.

We agree with the findings of the Annapolis Environmental Commission that: "The stormwater management plan relies on stormwater detention ponds, a technique now considered obsolete. The State of Maryland now requires Environmental Site Design, as detailed in the Maryland Stormwater Design Manual. Structural practices are to be used only when no other options are possible."

The replacement of Priority Forest with huge amounts of impervious surfaces presents an enormous water quality problem. In meetings with the developers they have pledged that the stormwater from the site after development will be less in volume and cleaner than before development from the site. The developer's current web site states that: 100% storm water retained / treated on site including gray water recycling. See <http://www.crystalspringannapolis.com/userfiles/file/economic-benefits-forest->

The plan submitted falls way short of meeting this objective. Significantly reducing the footprint and protecting more forest is essential to achieve a no net increase in stormwater volume, rate, and pollutant loads. Adding to the stormwater problem is the impact the development will have on steep slopes on the site which needs special attention.

Urban stormwater runoff in Annapolis and Anne Arundel County is by far the number one source of Bay choking nutrients, sediment, and toxic chemicals. EPA Bay program data shows that Crab Creek and the South River are seriously impaired waters and the main source of pollutants to the South River system is stormwater runoff from developed land—42 percent of the nitrogen, 59 percent of the phosphorus, and 76 percent of the sediment choking the River comes from stormwater runoff, far more than from any other source. The City should not allow such a massive, sprawling development and the elimination of 44.24 acres of stormwater-absorbing forest.

10) PROPOSED ROAD CONSTRUCTION SHOULD NOT BE ALLOWED.

The developer's newly submitted plan includes a significant change to the current Crystal Spring Farm Road which is now graveled or dirt. They would re-develop the road from at grade to a height of 6 feet. This would entail significant construction on either side of the road destroying more forest, causing more stormwater runoff from the road and steep slopes created on either side of the road, and possibly impacting wetlands on either side of the road. Drainage from a roadway increased from grade to 6 feet would increase the stormwater runoff for the life of the road. This construction to 6 feet in height should be rejected.

11) WETLAND IMPACTS NOT MINIMIZED UNDER NEW PLAN.

The new plan seems to indicate that the nine single-family homes in the center of the property invade wetland buffers and the use of retaining walls there and elsewhere appears to also invade this buffer, as does the south side of the main CCRC building.

12) STORMWATER REMEDIATION PROJECT ON TWO DRAINAGE SYSTEMS NOT A SUBSTITUTE FOR PROTECTING THE FOREST, WETLANDS, AND NATURAL FEATURES ON SITE.

The developers plan to mitigate two nearby impaired stormwater drainage systems. However, the science is clear that there is little evidence that stream restoration projects such as the two the developers have contracted for at Crystal Spring will have any real effects on water quality as compared to the damage caused by not protecting the natural systems of forest and wetlands that naturally and effectively attenuate stormwater flows.

We would encourage you to carefully look at the following web site and the collection of papers on the topic of the lack of demonstrable water quality benefits of stream restoration projects. http://palmerlab.umd.edu/bernhardt_and_palmer_2011_restoration.pdf. Dr. Margaret Palmer is a co-author of one of the papers and of the following note. She is from Maryland and is a noted expert on stream morphology and water quality.

The Ecological Society of America examined the issue of Evaluating River Restoration and published seven papers evaluating the ecological outcomes of river and channel restoration projects in the eastern United States (including in Anne Arundel County) and in Western Europe. Here is the combined assessment:

“Unfortunately, the conclusions of these papers are sobering. Empirical evaluation of a variety of channel-based restoration projects discovered little evidence of ecologically successful outcomes. Violin et al. find that urban stream restoration efforts in the southeastern United States had no demonstrable effect on habitat diversity or on macroinvertebrate communities. More disheartening, Louhi et al. find that several restored streams in Finland have stream invertebrate communities that are depauperate relative to unrestored upstream reference reaches even 15 years following restoration. Sundermann et al. find that most of the restored streams they sampled in Germany show no measurable improvement in macroinvertebrate communities, and the few that do are close to intact, forested catchments.

Sudduth et al. report that restored urban streams in North Carolina have significantly higher temperatures than unrestored urban streams as a result of removing riparian trees to facilitate restoration projects. Filoso and Palmer show that efforts to reduce the flux of nitrogen to coastal waters through hydrogeomorphic stream restoration approaches are rarely successful. Ja'h'nig et al. document the existence of different perceptions of restoration success and show that, according to data from river restoration projects in Germany, water managers tend to be overly positive in their self-evaluation of restoration projects.”

One of the papers cited above by Filoso and Palmer, is written by two Maryland experts on stream morphology and water quality, Drs. Solange Filoso and Margaret A. Palmer and is entitled *Assessing Stream Restoration Effectiveness at Reducing Nitrogen Export to Downstream Waters*. These scientists look at stream restoration projects in Anne Arundel County, including ones that drain to the South River such as at Wilelinor Estates.

At the outset, the researchers in their 2011 paper find that “In regions that suffer from coastal eutrophication, it is unclear whether stream restoration does in fact reduce nitrogen (N) flux to downstream waters and, if so, by how much and at what cost.” They found that the nitrogen flows downstream from the Wilelinor Stream Valley site actually increased in more storm events than decreased. They clearly conclude that it would be best to look upstream and reduce nitrogen flows from existing lands as stream restoration as practiced might not reduce nitrogen flows at all, and even when it does, it is on the order of less than 5 percent.

Their study is in *Ecological Applications*, 21(6), 2011, pp. 1989–2006, by the Ecological Society of America. Also please look at another more recent study: *Compensatory Mitigation for Streams under the Clean Water Act: Reassessing Science and Redirecting Policy* by Martin W. Doyle and F. Douglas Shields in *Journal of the American Water Resources Association*, Vol. 48, No. 3, June 2012. The authors note that:

“The working assumption by regulators, practitioners, and many academics appears to be that stream restoration, as typically practiced (see Bernhardt et al., 2005), produces increased physical, chemical, and biological integrity. This assumption is necessary for the current implementation of compensatory mitigation to be an option in the CWA 404 permitting program. Our review shows that this assumption is questionable, and that many traditional stream restoration projects are largely ineffective at restoring chemical and biological functions.”

In the paper’s abstract note this statement: “Current stream restoration science is not adequate to assume high rates of success in recovering ecosystem functional integrity. The physical scale of most stream restoration projects is insufficient because watershed land use controls ambient water quality and hydrology, and land use surrounding many restoration projects at the time of their construction, or in the future, do not provide sufficient conditions for functional integrity recovery.”

In other words, stream restoration has limited if any success in restoring ecosystem integrity as surrounding natural land uses are much more important. Such mitigation is not nearly as effective as leaving natural systems such as forest intact and should not open the door to the significant destruction of natural systems--forest and wetlands— under the plan before you that will adversely affect the hydrology of Crystal Spring and certainly add to stormwater runoff with its pollutants to Crab Creek.

13) 100' BUFFER IS TOO NARROW AND IS ENCROACHED UPON BY STORMWATER FACILITIES.

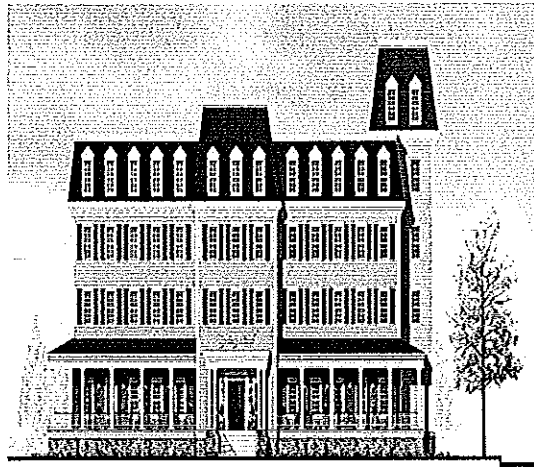
The minimum forested buffer along traffic-clogged Forest Drive for view scape and noise protections and for water quality should be at least 150', not the 100' buffer planned. While the developer's filing indicates that this buffer will not be broken, the plans submitted show stormwater structural facilities in the forested buffer. The buffer should be increased and all stormwater and other structures in it should be eliminated.

14) DNEP SHOULD REJECT PRECONCEIVED NOTIONS THAT A FULL BUILD-OUT OF THE PROPERTY UNDER EXISTING ZONING IS A RIGHT AND MUST BE ACCOMMODATED.

Throughout this process on the Crystal Spring development we have been hearing how the City cannot dictate to the developer where they can and cannot build and how they should be allowed to build to the limits allowed by zoning, all of course with minimal compliance with environmental laws as interpreted by the City.

The assumptions above are false in that the City has full authority—and a duty-- under its Planning and Zoning laws and state and local environmental laws to require full compliance with these laws. DNEP has the authority under the Forest Conservation Act and the City Code to outright reject clearing of Priority Forest and of specimen trees. DNEP under its current review of the PFCP and PSDP could reject the application outright and order the developer to comport fully with the law, still allowing the developer to build on more than 25 acres of the property, land which could easily accommodate most of the housing units for a senior living center including the CCRC building. Instead, the City appears to be compliant with the developers' desire to maximize the development, while destroying 48.64 acres of Priority Forest and the many specimen trees. This goes well beyond the 3-5 acre farmettes promoted by the owner at the time of annexation.

The City clearly could and should require the developer to protect and preserve much more than 44 or 46 acres of forest as pledged by the developer this year; even clearing 36 acres of Priority Forest is too much. The City has the duty to assure that the 82 acres of Priority Forest shall be left in an undisturbed condition unless the applicant has demonstrated, to the satisfaction of the City of Annapolis, that reasonable efforts have been made to protect them and the plan cannot reasonably be altered. Of course all reasonable efforts have not been made to protect the forest and of course the plan can be reasonably altered. The real question is: does the City have the courage and will to enforce this law? Yes, enforcing the law will mean a loss of some of the development's footprint and it should result in eliminating or significantly reducing the massive non-age restricted residential, retail, and commercial development at the north end, including 126 non-age restricted town houses.



THE 80 ROOM HOTEL AND SPA

Source: Developer's web site at: <http://www.crystalspringannapolis.com/about/site-plan-renderings>

It appears that City officials labor under false assumptions about allowing the developers the right to maximize or nearly maximize the development of a property with such protected features as Priority Forests, specimen trees, and wetlands.

In their filings, the developers allege that failure of the City to approve their current plan would amount to a constitutional taking. This specious argument is without merit and any court would concur. Any notion of a takings in the current development plan process is simply desperate puffing by the applicants. Arguing that placing restrictions dictated by environmental and planning and zoning laws, even severe restrictions on the scope and footprint of the development, would somehow rise to a constitutional taking is absurd and not based in law.

In *Neifert v. Dep't. of the Environment*, 395 Md. 486, 517 (2006), the Maryland Court of Appeals most recently reiterated the test employed by both it and the Supreme Court for what constitutes a taking: "A property owner who is denied all economically beneficial or productive use of his or her land in the name of the public at large has likely suffered a taking, unless the regulation prohibits a common law nuisance. See, *Lucas v. South Carolina Coastal Council*, 505 U.S. 1003 (1992)" [Emphasis added]. Moreover, as the Supreme Court famously stated in *Penn Central Transp. Co. v. City of New York*, 438 U.S. 104, 131 (1978):

"Taking" jurisprudence does not divide a single parcel into discrete segments and attempt to determine whether rights in a particular segment have been entirely abrogated. In deciding whether a particular governmental action has effected a taking, this Court focuses rather both on the character of the action and on the nature and extent of the interference with rights in the parcel as a whole

In other words, any claim of a taking from full and complete application of Forest Conservation Act requirements to development of Crystal Spring property would have to be premised upon the regulation denying to Crystal Spring Development, LLC and the other ownership interests all beneficial use of the entire acreage of the site. A claim that they were denied beneficial use of the acres required to be preserved as priority forest would never rise to the level of a taking, because even if all priority forest were preserved, there would be ample acreage left over to develop for economically beneficial and productive use.

The City could reduce the footprint of the proposed development by 80 percent or more to protect the Priority Forest, specimen trees, and wetlands, while still allowing 15-20 acres to be developed without even coming close to a constitutional taking.

Certainly the building of a much smaller clustered retirement community with greater density on 15-20 acres would be a reasonable economic use and would allow the City to protect 80 percent or more of the Priority Forest, most all of the specimen trees and all of the wetlands on the site.

The developers are creating a false argument that Priority Forest designation means the site cannot be built on at all. Of course, this is not the case. Even if the entire Priority Forest is preserved, as well as the wetlands and their buffers, that still leaves at least 20 acres that could support a dense senior living center project. Instead, the developer wants the City to assume that the developer has some constitutional right to develop such a massive project as proposed and that the City should be more than willing to make findings that override the strong protections under the Forest Conservation Act and City Code for Priority Forest.

In summation, the Preliminary Forest Conservation Plan and Preliminary Site Development Plan are environmentally destructive, will adversely affect air and water quality, increase traffic in a congested corridor, and do not comport with state and City environmental laws nor do the plans meet the City's Comprehensive Plan. They should be rejected.

Respectfully Submitted,

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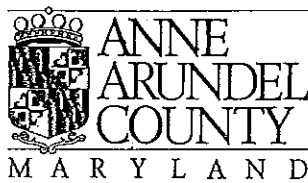
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*The views expressed in this document represent the personal views of the signatories marked with an * and not necessarily the views of their employers or organizations.



CHRIS TRUMBAUER
Councilman
Sixth District

Ms. Maria Broadbent, Director
Department of Neighborhood and Environmental Programs
City of Annapolis
160 Duke of Gloucester Street
Annapolis, MD 201401

July 31, 2014

RE: Comments on Crystal Spring Development Forest Conservation Plan

Dear Ms. Broadbent,

The proposed Crystal Spring Development is an issue of concern for many area residents, both within the City of Annapolis and the surrounding neighborhoods. As county residents outside the city limits have no elected representation in Annapolis city government, they frequently contact my office to express their concerns, with the hope that I may communicate them to the appropriate city officials.

You will not be surprised to learn that many constituents have contacted me with regards to the Crystal Spring Development. While many concerns are related to traffic impacts, character of the community or other important issues, I will restrict my comments in this letter to the Preliminary Forest Conservation Plan.

I am familiar with several other submissions by individuals and groups with more expertise on the Forest Conservation Act than me, and I urge you to thoroughly review and consider these comments. They include the letter sent by former State Senator Gerald Winegrad and numerous signatories, and also the comments submitted by the Annapolis Environmental Commission, of which I was once a member (and Chair).

I want to call attention to several issues among the ones these groups cite. First, the importance of protecting priority forest and wetlands should not be minimized. As the Annapolis area continues to become more urbanized, we must protect the areas of contiguous, priority forest we have left. Once they are developed they can never be recovered. Although the developer may claim an unwarranted hardship, surely DNEP has the ability to require adherence to all current state and local provisions that protect priority forest – these laws were passed for a reason and shouldn't be discounted or ignored.

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City code (17.09.025) provides an option to apply the strictest standard when the City Code and the State Code both apply. The City should consider applying the strictest standard because of the significance of the existing forest and its location on Forest Drive, a major arterial route into and out of the Annapolis Neck. In the Anne Arundel County Greenway Master Plan, much of this property is also identified as part of the Annapolis Neck Greenway, a network of natural areas "that protects ecologically valuable lands and provides open space and recreational benefits for people." I believe it is within DNEP's power to require optimal protection of the wetland and priority forest areas and the developer could reconfigure the site plan to accommodate this. The City should also follow its requirements under the Tree Replacement Requirements (17.09.070) to help keep the site properly forested and to be true to its overall tree canopy goals.

I also want to underscore a point made by the Annapolis Environmental Commission relating to the need for public access of any conservation easement. Substantive easements can be an effective tool, but proper public access is essential. Please ensure that any conservation easements proposed in relation to this project have robust public access, for the benefit of our residents who need natural spaces in their community.

Again, I urge DNEP personnel to give full consideration to the many thoughtful and detailed comments submitted with regard to the Preliminary Forest Conservation Plan, and to use your authority to require revisions as necessary to protect the natural environment of Annapolis and its surrounding communities. If acceptable solutions to reasonable environmental concerns cannot be devised, then the Preliminary Forest Conservation Plan should be rejected.

Sincerely,

A handwritten signature in black ink, appearing to read "Chris Trumbauer", with a stylized flourish at the end.

Chris Trumbauer
Councilmember, District 6
Anne Arundel County, MD

Ms. Maria Broadbent, Director
City of Annapolis Department of Neighborhood
And Environmental Programs
City Hall
160 Duke of Gloucester
Annapolis, MD 21401

July 31, 2014

Dear Ms. Broadbent,

The Anne Arundel Bird Club (AABC) would like to submit its official comments for the record on the Revised Forest Conservation Plan (RFCP) submitted to DNEP on June 25, 2014. Our comments are included herein.

The AABC was organized in 1954 and is a chapter of the Maryland Ornithological Society (MOS), and our mission is to promote the knowledge and conservation of birds, wildlife, natural habitats, and natural resources. Crystal Spring Farm has long been an important bird habitat and bird-watching area with the AABC. For decades, the AABC has conducted its annual Christmas Bird Count on the Annapolis Peninsula, and we have long included Crystal Spring Farm as part of our territory. Many bird species found there have not been found anywhere else in Annapolis, and many other species are found there in significantly greater numbers than elsewhere on the Peninsula.

The total number of bird species documented on the Katherine Property by the Cornell Laboratory of Ornithology is 222 species. This exceeds Quiet Waters Park, a similarly situated tract of undeveloped land on the Peninsula by approximately 80 species. The 110-acre tract of the Katherine property contains some 82 acres of mostly contiguous forest and nearly 30 additional acres of important early-successional habitat (shrub) that is becoming exceedingly rare in Anne Arundel County and very important for many bird species. The habitat provides food and cover for over-wintering birds as well as stopover habitat for migrant species. Many species that breed on the property require relatively large areas of open space and forest habitat. These species include Pileated Woodpecker (*Dryocopus pileatus*) and Barred Owl (*Strix varia*). These facts together make Crystal Spring Farm the most important bird habitat on the Peninsula and one of the most important in AA County.

If developed under the proposed plan, the vast majority of contiguous forest (some 44 acres) will be eliminated, and the remaining forest will be fragmented. Many of the bird species found on the property will cease to occur there. They will not be able to find other places to go in Annapolis, as there are no places left. Existing habitat is so rare, that there is not enough space for these individuals to live and breed. Biodiversity on the peninsula will decline as a result. Even replanting of the open areas will not recreate what is there now. We have seen this already with species such as Northern Bobwhite (*Colinus virginianus*), which were once abundant on the peninsula, but due to extensive land use change have disappeared in the last 10-15 years. In addition to the loss of habitat, the impacts from the development have the

potential to cause irreparable harm to other natural resources, undermining many of the valuable ecosystem services provided by the contiguous forest area.

As a result of these projected losses, the AABC believes the Crystal Spring Development as proposed will result in unacceptable impacts to birds and bird habitat. We recommend that the RFCP not be approved because of its failure to address these issues. The AABC supports the acquisition of Crystal Spring Farm as a protected area or designated open space by fee simple purchase or by the purchase of a conservation easement using any combination of public and private funds such as, but not limited to, Program Open Space, federal Land and Water Conservation Funds, in-kind land donations, or donation of private money, foundation grants, or land trust moneys, thereby respecting the private property rights of the landowners. The AABC also supports any appropriate and lawful efforts that leave Crystal Spring Farm fully intact for the future enjoyment and existence of birds and bird habitat that also respect the landowners' private property rights.

Thank you very much.

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Ms. Maria Broadbent, Director
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City Hall
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July 31, 2014

Dear Ms. Broadbent,

Please accept the attached comments on the Revised Forest Conservation Plan (RFCP) for the Crystal Spring development submitted to Annapolis Dept. of Neighborhood and Environmental Programs (DNEP) on June 25, 2014. We have reviewed the submitted documents, and based upon our review, we are requesting that the City reject this plan on the basis of unacceptable environmental impacts in the City's public interest; significant potential underestimation of direct impacts to wetlands; and multiple ambiguities that result in a functionally incomplete, misleading and deficient RFCP. In addition, based on our findings, we are requesting that a new, independent wetland delineation be performed on the property. Until such a delineation occurs, any approval of the project should be suspended. In addition, we have identified several other deficiencies with the proposed development plan as well as with the RFCP itself.

Our independent analysis included geo-spatial review of the new plans submitted, and our findings concurred that this development will clear more than 44 acres of forest, almost all of which is contiguous, priority forest. In addition, we examined the non-tidal wetlands using current aerial imagery and data from the Maryland Department of Natural Resources (DNR) to assess the extent of wetlands on the property as well as the direct impacts this development would have on those wetlands. We found that the developers' Forest Stand Delineation from 2013, the most current wetlands map on the DNEP website, significantly underestimated the amount of extant wetlands on the Katherine Property, *by more than 50%*. As a result, the direct impacts assessed by the developer and by MDE are also grossly underestimated.

We have identified 5.31 acres of non-tidal wetlands on the property, according to DNR data. This is more than twice as much as the developer identified in their FSD using field visits from 2010/2011, after which new culverts along Crystal Spring Rd. caused a draining of portions of extant wetlands. In addition, we identified entire wetland areas not even included in the FSD/RFCP that will suffer direct impacts. Current aerial imagery from June, 2014 corroborates the DNR data and the existence of these wetlands, showing a clear wetland signature in the soils and vegetation (see Exhibit 1, attached). When these DNR wetland data are intersected with the project footprint, results indicate that total wetland impacts would be between 1.3 and 1.7 acres. If these results can be corroborated by an independent, delineation, this level of impacts disqualifies the project as a minor project under the MDE general permit and suggests that further review by the U.S. Army Corps of Engineers Regulatory Branch in Baltimore is warranted. Even if considered isolated wetlands, which most likely these are not, this level of impacts exceeds the 1-acre threshold for an MDE letter of authorization for isolated non-tidal

wetlands. In contrast, the developers have estimated wetland impacts to be as low as 0.16 acres, a variation of as much as a factor of 10! Such a discrepancy warrants further investigation at a minimum, and full regulatory review by the Corps of Engineers and MDE would be optimal in this case.

Our findings indicate that there is a strong case to be made for the hydrologic connection of the wetlands to jurisdictional Waters of the United States, based on adjacency to tributaries to Crab Creek. Hence a significant nexus exists that makes these non-tidal wetland jurisdictional under Section 404 of the Clean Water Act.

Wetlands are vital ecological resources that are critical to the health of our watersheds and to the Chesapeake Bay. They filter and absorb pollution and nutrients, thereby improving water quality; they provide important wildlife habitat for reptiles, birds, and amphibians, many of which are obligate wetland species; they store carbon in the soil organic matter and in the vegetation; and they are important havens of plant biodiversity. These important ecological functions are not easily replaced. The failure of the applicant to provide an accurate estimation of wetland impacts means that they have not proposed an appropriate level of compensatory mitigation (40 CFR 230.10(d)) to offset these impacts, nor have they adequately demonstrated how they will avoid and minimize these impacts [40 CFR 230.10(a)].

The impacts to contiguous forest will also be unacceptable under the Forest Conservation Act (17.09.025B) as well as to the public interest of Annapolis. The 82 acres of contiguous forest on the Katherine Property together are an outstanding natural resource of the City of Annapolis. It is irreplaceable. This stand of forest is a major local carbon sink and provides wildlife habitat for hundreds of species, including 222 species of birds. It also acts as a water quality insurance policy for the South River through the nutrient filtration and absorption functions that it provides. Studies have shown that once watersheds reach 10% impervious surface, significant degradation to adjacent water bodies results. The non-point source and storm water runoff that this development would create, even with best management practices, would more than offset the benefits currently provided by the forest stand currently on the property.

This latest version of the project will still clear 44 acres of forest, an incrementally marginal improvement over the previous version. In addition, the development would be concentrated in the heart of the contiguous forest block on the northeast part of the property, leaving little forest remaining in the northeastern end of the project. This forest includes the most mature and diverse sections of the forest on the property.

The RFCP is very ambiguous in many areas. This is perhaps no more apparent than the impacts to Specimen Trees (ST's). The RFCP diagrams are misleading and inaccurate as to which ST's will be partially or completely impacted by the plan. Diagram "06-25-2014-forest-clearing-justification-(352817)" indicates in the legend that impacted specimen trees are represented in yellow- yet trees that appear to be direct hits under building footprints are not depicted any differently than other ST's. This legend appears to be erroneously marked. Total impacts to specimen trees are cryptically hidden in the documents, if provided at all. The document labeled "Exhibit A - Project Statistics simply shows a mock-up diagram of the three different versions of the project submitted to DNEP. No statistics are given, nor are any facts or figures. The

document labeled "06-25-2014-exhibit-a---comparison-(352818)" provides no "comparison" of anything. In fact, this document pertains to the LOD Tree Management Plan and is labeled Exhibit G when the document is opened. With errors like this, it is difficult for the public to have any confidence that the law is being adhered to with respect to the Forest Conservation Act, City Comprehensive Plan, City Code, Clean Water Act, Critical Area, Coastal Zone Management Act and any other pertinent statutes.

As a result of these deficiencies in the RFCP and the level of known impacts to forests and likely impacts to wetlands as well as the inaccuracies, misrepresentations, and insufficient documentation in the RFCP files, we request the City reject the RFCP and request the applicant resubmit materials to address these significant concerns. As part of this process, an independent wetland delineation should be conducted by a reputable, independent state or national expert on wetland delineations.

We thank you for taking these issues seriously. We would be happy to have a follow-up meeting with city officials to discuss these issues further and to provide additional data and information that support our analysis.

Thank you,

The Friends of Crystal Spring Farm and Forest

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Exhibit 1 – Aerial image from June, 2014 showing significant wetland omitted from 2013 Forest Stand Delineation submitted by Crystal Spring developers. This wetland is also documented in the Maryland Department of Natural Resources geo-spatial wetland dataset.